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**PRESIDENTIAL MANAGEMENT OF THE BUREAUCRACY:  
THE REFORM OF MOTOR CARRIER REGULATION AT THE ICC**

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## **Abstract**

Deregulation of the motor freight industry poses a serious challenge to social scientists' understanding of how regulatory systems operate. In this research, it is argued that the dismantling of the regulatory regime at the Interstate Commerce Commission was a product of presidential management of the bureaucracy through guidance of the status quo. Reform was a function of neither group influence nor a transition from one structure-induced equilibrium to another. None of the variety of alternative explanations fare any better. It was the chief executive's ability to capitalize on presidential resources through strategic utilization of political rules and processes that was fundamental.

In a world characterized by imperfect information and bounded rationality, presidents have opportunities for manipulating the status quo and circumventing the policy preference of regulatees and legislators. Motor carrier reform is simply an extreme example of a general phenomenon. Besides simply highlighting the need to incorporate additional actors into political economy models of bureaucratic behavior, this research shows that careful attention must be paid to detailing how these rules and processes affect bureaucratic performance.

## **Introduction: The Challenge of Deregulation**

During the 1970s, group theory (e.g., Stigler 1971, Posner 1974, Peltzman 1976, Becker 1983) was at the height of its popularity. To advocates of this perspective, no bureaucratic system seemed to epitomize better agency capture than motor freight regulation.<sup>1</sup> They saw trucking policy as a reflection of a stable and mutually beneficial set of relationships among congresspersons, interest groups, and bureaucrats; there was little doubt among most interested academic observers that this state of affairs would persist for many years.

Yet, in the late 1970s, motor carrier regulation began to be dismantled systematically. Initially, the Interstate Commerce Commission (ICC), the very agency responsible for regulating the industry, moved to reduce governmental restraints. Its members lowered barriers to entry and attacked the cartelistic rate-setting process (Schack & Kasson 1978, F.R. Kahn 1979). Ultimately, Congress passed and the president signed the Motor Carrier Act of 1980, which incorporated the bulk of the commission-sponsored changes. Trucking deregulation therefore forces us to ask: What are the ultimate limits of interest group influence?

More specifically, as Barry Weingast has aptly noted, motor carrier reform requires us to explain not only ICC deregulation in the late 1970s, but its failure during the previous three decades (Weingast 1984). Presidential doubts about the status quo were evident from the beginning of the post-World War II period; the idea of transportation reform was not new to the 1970s. A systematic examination of motor carrier deregulation must extend beyond a cross-sectional analysis of how a particular bill becomes law—it requires a long-term perspective. Coming to grips with the remarkable sequence of events leading to the Motor Carrier Act of 1980, given the historical context of previous failures, poses a serious challenge to our understanding of both interest groups and political institutions.

A temporal analysis demonstrates that presidential management of the bureaucracy brought about motor freight reform. The executive manipulated the status quo through careful use of rules and processes. Regulatees discovered that they were almost helpless in the face of the executive's choice of tactics. Other institutional actors—notably legislators—also found themselves in a disadvantageous position. Thus, the current deregulatory regime is not a function of a new structure-induced equilibrium that reflects an altered balance on the relevant committees. A political economy framework that utilizes standard assumptions about incentives and behavior but emphasizes rules and processes does a far better job of explaining change at the ICC than the often complicated alternatives. Such a perspective goes beyond making reform at the commission comprehensible; it provides a more general framework for understanding how chief executives influence bureaucratic performance.

## **Interest Group Theory and Motor Freight Regulation**

Group theory does not provide a viable explanation of trucking deregulation. The lack of major changes in the organizational environment would lead us to expect a continuation of the status quo. Instead, trucking reform, which served the public interest at the expense of the regulated, was promulgated.

Of course, the motor carrier case is not an isolated example (Lemak 1985). The telecommunications, railroad, airline, and banking industries also moved toward free market systems during the last decade. The irony is, as Keeler puts it, that "no sooner had the various 'special interest' theories of regulation achieved a degree of acceptance than regulatory reforms were instituted in many industries consistent with the public interest" (1984, p. 137).

What distinguishes the motor carrier case from others is a matter of degree: In no other instance is the failure of vested interests to get their way more pronounced. Both business and labor had a greater stake in preserving the regulatory status quo than their counterparts in many other industries. By no stretch of the imagination can one maintain that these interests passively accepted deregulation because they had little to lose. Rather, both major groups subject to the ICC's decisions on trucking—the American Trucking Association (ATA) and the International Brotherhood of Teamsters (IBT)—fought hard to maintain the regulatory regime.<sup>2</sup>

Motor carriers' ownership of billions of dollars worth of operating certificates—which could be written off for tax purposes at only a fraction of their value (Pustay 1983)—gave them a very tangible investment in the regulatory system. The high rates of return they received further reinforced their preference for regulation (Spady 1979; Friedlaender & Spady 1979, 1981). In addition, governmental control did not have the negative side effects for trucking companies and workers that it did for owners and unions in other industries.<sup>3</sup> In contrast to the airlines, telecommunication companies, and railroads, motor carriers were seldom required to cross-subsidize less profitable routes (for an extensive discussion, see U.S. Motor Carrier Ratemaking Study Commission 1983). They were not forced to compete over the quality of their service to the same extent as many airlines.<sup>4</sup> Technological changes were not creating interests antagonistic to regulation and making the status quo less and less efficient, as was the case in telecommunications (Sharkey and Sibley 1984, Hammond and Knott 1986).<sup>5</sup> And unlike their primary competitors, the railroads, truckers were not stymied by prohibitions against technological innovation (Gellman 1971).

Labor, too, had much to lose. The IBT's success in getting a piece of the pie for itself (Annable 1973, Felton 1978, Moore 1978a, Rose 1986) contrasts favorably with the position of union members in most other regulated industries who, while benefiting from increased job security, had not obtained higher wages (Hendricks 1977). The Teamsters were extremely hostile to the prospect of loosening government controls—which would weaken their bargaining position and increase competition from nonunion workers.<sup>6</sup>

In short, truckers and their employees had enormous incentives for maintaining motor freight regulation. None of the organized interests that opposed this system seemed remotely as committed as the ATA and the IBT. The efforts of the deregulatory forces were no match for the truckers and the Teamsters. The economic theory of politics, at least as previously formulated, cannot be reconciled with trucking deregulation.

### Alternative Explanations of Deregulation and the Motor Carrier Case

If the most popular theory of bureaucratic politics cannot account for trucking reform, how does one come to grips with the events of 1977-1980? Several other scenarios have been advanced to explain the dismantling of the regulatory framework in the motor freight, as well as other, industries. These competing theories can be grouped into five categories: (1) organizational, (2) public interest, (3) economic (modified), (4) political, and (5) congressional. Yet none fits the motor carrier case very well. After examining these perspectives, a political-economic explanation will be advanced. This alternative is parsimonious and consistent with both the facts of the case and the incentives of political actors. Such a viewpoint offers a superior perspective on trucking deregulation.

#### *An Organizational Explanation: The Garbage Can Model*

One means of rescuing the interest group model is simply to treat deregulation as *sui generis*, a reflection of the stochastic nature of the political universe. This can readily be accomplished by employing Cohen, March, and Olson's "garbage can" model of "organized anarchies," which they developed to explain organizational decision-making (M.D. Cohen et al. 1972; see also March & Olson 1976, 1983). Contrary to conventional assumptions, they argue that actors' preferences are uncertain, technologies are unclear, and participation is fluid. Outcomes are largely dictated by chance and reflect a probabilistic process by which problems, participants, and solutions are randomly coupled when a choice is made.

The garbage can explanation does not necessarily invalidate other models of bureaucratic performance. Although politics may be highly structured in general, what reaches the political agenda and is embodied in legislation may sometimes be determined by a random process. Put another way, economic models may be able to account for the normal interactions among legislators, bureaucrats, and group leaders; but this system of relationships may occasionally be subject to random, exogenous shocks.

Kingdon (1984) has recently applied this framework to political agenda-setting. In his view, the political environment contains policy advocates—e.g., elected officials and their staffs, group representatives, bureaucrats, and academics. These individuals behave like "political entrepreneurs" (Wilson 1980, Pertschuk 1982), advancing their preferred policy as the solution to every problem that is placed on the agenda. Each issue represents a "window of opportunity" for them, and with each comes a certain probability of success. If the entrepreneurs are persistent enough, their policies of choice may eventually be selected.

Transposed to the motor freight case, the logic of this theory might lead to the following argument:<sup>7</sup> A number of issues—environmental pollution, energy shortages, lack of coordination in transportation, rising inflation, and stagnant economic growth—have emerged on the political, and particularly the legislative, agenda in recent years. These problems represented windows of opportunity for proponents of deregulation, who are mostly economists but include some politicians, bureaucrats, and representatives of public interest groups. In each case, these advocates of a market

system attempted to attach their solution to the given problem. Eventually, through a more or less random process, streams of policies, politics, and problems came together. "The key to movement was the coupling of the policy stream's literature on deregulation with the political incentive to rein in government growth, and those two elements with the sense that there was a real, important, and increasing problem with economic efficiency" (Kingdon 1984, p. 212). After airlines opened the way, deregulation became faddish, and reform "spilled over" to the ICC (see also Skowronek 1982).

While the garbage can perspective may have some heuristic value as a way of thinking about politics, it is not very satisfying as an explanatory tool. In the case of motor freight deregulation, its deficiencies are twofold: theoretical and empirical.

One difficulty is, as Mohr puts it, that the garbage can model is really a nontheory:

This collection of motives and resources is too loose and imprecise, too nonnecessary, to be the precursor of a true process theory. The idea in process-theoretic form is useful mainly because it provides a working image of an intriguing aspect of organizational decision making. It suggests that the potential for choice situations to become garbage-can processes always exists, but actualization becomes more probable in some instances than others . . .

The idea suggested [by March and his colleagues] that as choice opportunities rise and fall in the organizational world, a few do indeed become garbage cans is not a theory. It is, in fact, a good example of nontheory. (1983, pp. 178-179)

March et al. correctly remind us of the stochastic element in the political system. What they fail to provide, at least as their model is applied to the stylized facts of deregulation, are falsifiable hypotheses. Virtually any set of facts can be interpreted as a reflection of the garbage can process. Furthermore, the political world is not nearly as random as this framework implies. All this model offers is an explanation of last resort—to be accepted only when there is no structure that can help make sense of the facts.

Even if these theoretical pitfalls are set aside, Kingdon's notion that reform spilled over from the airline to the trucking industry is untenable. The motor carrier deregulation process was not merely an accidental by-product of the general fever for reform, as can be seen most clearly by examining the chronology of events in these two industries. For Kingdon to be correct, motor carrier reform should have occurred after the airlines were deregulated, and in all likelihood, the same individuals should have been key players in both cases. But the ICC was busily dismantling regulation well before the airline reform activists could possibly have shifted their attention to land transportation; by the time the Airline Deregulation Act of 1978 was passed, a great deal of administrative reform had already taken place at the ICC. Another possible version of the Kingdon scenario is that for no apparent reason, the ICC was simply mimicking the CAB and was not obstructed by other political actors. This explanation is simply unconvincing given the distribution of incentives throughout the political-economic system: Organized groups and congressional decision-makers should have stepped in and put a stop to the commission's "irresponsible" behavior.

A more persuasive argument is that—although certain individuals were active in both struggles (most notably, Darius Gaskins, who will be discussed further below)—airline and motor carrier deregulation were parallel processes. They had similar roots (e.g., inflation) and actors adopted analogous strategies (e.g., using bureaucratic reform to lay the groundwork for legislation), but neither was a result of the other. In particular, both were products of presidential management of the political system in an effort to change the status quo. Steps toward reform of the airlines began first because that situation was more manageable; it took a few extra months for the movement to pick up steam at the ICC.

### *A Revised Public Interest Theory*

To explain deregulation, some analysts have come full circle—back to the public interest theory that had been rejected several decades earlier. Most prominently, Michael Levine (1981) has applied this perspective to the airline case. He argues that bureaucrats and politicians do try to promote the general welfare by regulating economic activity, but they are occasionally misled. Private or sectional misrepresentation sometimes secures governmental action that favors a relatively narrow set of interests. Once these errors become evident, decision-makers try to correct them by approving policies that benefit the more general public. In other words, Levine asserts that the public interest arguments advanced by earlier generations of political scientists (e.g., Friendly 1962) and economists (e.g., Bonbright 1961) should not have been discarded so quickly in the 1960s and 1970s. If this traditional perspective is revised to incorporate the difficulties in implementing policies that promote the public interest, it can explain both regulation and deregulation.

Levine's model would lead us to believe that the motor carrier industry was originally placed under ICC control in an effort to curb the chaos existing in the marketplace in the wake of the Great Depression. Although the policy of restraining destructive competition was subsequently discredited in academic circles (the seminal work was Meyer et al. 1959), private interests were successful in misleading decision-makers and perpetuating the status quo. Eventually these misconceptions were cleared up, and regulation was abandoned in favor of greater reliance on competition.

As hard as it is to accept Levine's explanation of the airline case, it is even more implausible when applied to trucking and the ICC. It would be necessary to presume a level of naivete and ignorance among decision-makers that is simply untenable. The argument that the motor freight industry should be subject to governmental restraints to prevent destructive competition was put to rest by prominent economists at least two decades before deregulation occurred. These academic findings were disseminated through numerous sources within government circles. This was evidenced in President Kennedy's 1962 Transportation Message to Congress, which was heavily influenced by the work of Meyer and his associates at Harvard. The statements of prominent governmental actors, such as the Council for Economic Advisors and the Department of Transportation, for many years before passage of the Motor Carrier Act of 1980 also reflected knowledge of these developments. For Levine's model to be correct, private interests must have successfully misrepresented the true impact of ICC regulation to legislative and agency decision-makers for the better part of two decades—even though the executive branch was clearly aware of

the costs of governmental control.

This argument is even more difficult to believe because the trucking industry is so obviously competitive if operators are unrestrained by regulation (see, for example, Bailey & Baumol 1984). Claims of natural monopoly simply have no place here, unlike in the railroad, airline, or telecommunication industries (though admittedly, advocates of regulation have argued that a few large firms would dominate the trucking business after deregulation). In other words, economists' opposition to motor freight regulation was both simple for decision-makers to comprehend and extremely well documented.

The public interest rationale does not provide a convincing explanation of the motor carrier case. Regulation lost its credibility long before reform was enacted. An adequate theory must account for this lengthy lag; blaming the gullibility of elected officials is simply too farfetched.

*A Modified Economic Approach: A Synthesis of  
Public Interest and Interest Group Models*

An innovative attempt to salvage interest group theory by modifying it to fit empirical reality has recently been made by Theodore Keeler. He maintains that a synthesis of public interest and interest group theories provides the best explanation. Keeler suggests that "regulatory reform is likely to occur if there is a dramatic increase in its [regulation's] cost, or if it is discovered that there is a dramatic increase in its cost" (1984, p. 135).

In Keeler's scheme, maximizing regulators (i.e., legislators and bureaucrats) weigh the political costs and benefits of regulation. If the efficiency loss rises, increasing political costs may compel regulators to act in the public interest by easing controls. In this way, interest group models can be reconciled with government policies that result in more efficient outcomes (see also Becker 1983). It is quite dubious that this general argument accounts for deregulation in the three industries Keeler examines—railroads, airlines, and telecommunications—particularly in the case of airlines. It is clearly inadequate when applied to trucking.

To put the problem in a nutshell, the conditions needed to bring about deregulation in the motor carrier industry according to the assumptions of Keeler's model did not exist in the 1970s. The social welfare costs of government control were basically constant, and legislators had known about them for years. Rising costs (perceived or real) seemed to play no part in the events that led to trucking deregulation. Beyond this, endorsing statutory reform was unlikely to garner support for maximizing regulators since most people would not even notice the efficiency gains accruing to them. The political process through which efficiency gains could be translated into increased support for the legislator or bureaucrat is not readily identifiable; Keeler never addresses this topic directly.

To his credit, Keeler does recognize that it may be difficult to reconcile his theory with the motor carrier case. While he examines trucking only briefly, he suggests focusing on the interrelationship between the railroads and motor carriers. Specifically, he asserts that truckers were originally regulated primarily as a result of pressure from the railroads:



Truckers were regulated largely because of pressure from the railroads to reduce their [intermodal] competition. Truckers themselves (both workers and investors), however, soon started earning excess rents in a way quite consistent with the capture theory (Moore, 1978). It is worth noting, however, that when railroads were deregulated, so were truckers. Someone subscribing to the pure-capture model of regulation would have difficulty explaining truck deregulation . . . On the other hand, regulatory policy based to some degree on public-interest considerations might very well have an incentive to regulate trucking which stems from a need to regulate railroads (Braeutigam, 1979). (Keeler 1984, pp. 138-139)

Unfortunately, Keeler's argument is not at all clear. His statement might be taken to imply that once the efficiency costs of railroad regulation rose, causing a move toward a free market in that mode of transportation, the *raison d'être* for motor freight regulation vanished also. In other words, as the interest group basis for railroad (and therefore trucking) regulation evaporated, maximizing politicians attempted to gain support by opening up the motor carrier industry and increasing social welfare.

This argument is simply unconvincing. The initial assumption that trucks were regulated in the 1930s principally because of pressure from the railroads is overly simplistic (Rothenberg 1987). More important, it is unclear why the railroads would want truckers to be freed from such controls in the 1970s. The rail companies would enjoy a competitive advantage if they were not regulated and their motor freight competition were.

Regardless of the preferences of the railroad interests, it is Keeler's failure to take temporal change into account that ultimately undoes this explanation of the motor carrier case. As Noll and Owen point out (1983), regulation both creates and destroys interests. The political landscape was not frozen in 1935. Even if the railroads had originally been the major force behind trucking regulation, the Motor Carrier Act of 1935 institutionalized the trucking industry as a member of the regulatory system. While railroad interests grew weaker, the truckers and their labor allies got much stronger and gained the political upper hand on their intermodal competitors. The ailing railroads played no discernible role in trucking deregulation; by the mid-1970s, they were more concerned with obtaining direct governmental assistance for their own industry. The political mechanism by which the rail interests allegedly brought about motor carrier reform is a mystery.

Given his citation of Braeutigam (1979), there is another possible interpretation of Keeler's argument. He might be suggesting that railroad deregulation increased the costs of rate-setting in the trucking industry. Braeutigam's analysis is devoted to deriving the second-best pricing system<sup>8</sup> that is most efficient when there is intermodal competition and one of the two industries has economies of scale. In standard second-best pricing schemes, rates in both industries are regulated. Assuming that railroads enjoy economies of scale and motor freight carriers do not, Braeutigam maintains that only prices in the industry with such economies, i.e., the railroads, should be regulated. Alternatively, if the potential gains from this rate structure are negligible, it might be preferable simply to let the market function. Therefore, under either "partially regulated second-best" pricing or market pricing, trucking should not be subject to ICC supervision. According to this interpretation of Keeler's model, then, politicians reformed the trucking industry because they

suddenly understood that there was no conceivable reason for regulating motor carriers once the railroads were deregulated.

This logic seems convoluted, and it is ill-suited for understanding the changes at the ICC. For one thing, market pricing of motor freight carriers had been advocated for years because of the anticipated efficiency gains. There is no evidence that the benefits expected using Braeutigam's model would be any greater (since there were no estimates) than with models based on other assumptions. But a necessary condition for Keeler's model is that decision-makers suddenly become cognizant of such increased efficiency costs: This never occurred.

For another thing, there is once again a problem of timing. Why would the railroads be deregulated before trucking when the least desirable situation, given the tenets of second-best pricing, would be for the railroads to be deregulated while motor carriers were still subject to governmental control?<sup>9</sup> The supposition that motor freight deregulation was fundamentally a function of the Railroad Revitalization and Reform Act of 1976 and other efforts to loosen rail regulation combined with recognition of the benefits of second-best pricing is very strained. It has little relation to what actually transpired.

*A Political Approach: The Confluence of  
Necessary and Sufficient Conditions*

An alternative explanation is that a series of political forces that are necessary and sufficient conditions for deregulation converged and spurred decision-makers to act on economists' recommendations. Organized groups were simply unable to get all of their traditional political allies to promote their interests. While proponents of the garbage can model argue that the process leading to deregulation was highly stochastic, the political model suggests that it was relatively structured and deterministic.

Martha Derthick and Paul Quirk have recently advanced this viewpoint in their analysis of the trucking, telecommunications, and airline industries:

To sum up the analysis in the broadest terms, the explanation for success in our cases has three principal elements: the fit between a well developed analytic prescription and the need of politicians for positions that were responsive to current public concerns (inflation and intrusive government), appealing on ideological grounds, and easy to comprehend and explain; the presence of leadership roles and institutions, especially the commissions and courts, that facilitated action; and the difficulty encountered by the affected interests, though mobilized in opposition, in converting economic resources to political use. (1985, p. 245)

Their attempt to fit their cases into this framework is strained. With respect to trucking, several problems are readily evident, particularly in the treatment of producer groups and the legislature. Derthick and Quirk's argument that affected interests found it difficult to convert economic resources to political use and therefore lost their battle against deregulation is circular. It is only because these groups failed that we know that they were unable to translate economic

strength into political leverage. Furthermore, it is not at all clear what more the groups could have done. By the authors' own admission, the American Trucking Association and the Teamsters were organized skillfully; were extremely well funded; and especially in the case of the ATA, made few strategic mistakes. Indeed, analysis demonstrates that the ATA was quite effective in influencing senators' voting (Freundreis & Waterman 1985). The finding that key groups failed to convert economic power to political advantage is a description rather than an explanation of the outcome.

Another and perhaps even more damaging flaw in Derthick and Quirk's analysis is their belief that public concern about inflation and intrusive regulation motivated congresspersons (and other politicians) to support deregulation. Timing again poses a problem: These issues had been salient for many years before Congress approved motor carrier reform (on inflation, see *The Gallup Report* 1984; on regulation, see Lipset & Schneider 1983), and deregulation surfaced on the congressional agenda as early as 1962. Another difficulty is that the rewards gained by legislators for opposing the truckers and the Teamsters were likely to be minimal because of the low visibility of motor carrier regulation and the very diffuse benefits that reform would bring to the average citizen. As Weingast has recently remarked, the lack of political credit accruing to congresspersons for deregulating both the CAB and the ICC "provides a major unresolved issue in the economic theory of regulation" (1984, p. 182). Why, then, should long-standing public concern over inflation and regulation motivate congresspersons to screw up their courage and endorse deregulation "on ideological grounds"? Or did legislators' affirmative votes reflect something other than a sincere preference for the market mechanism?

For now, it is sufficient to note that congresspersons did not rush to jump on the deregulatory bandwagon. Rather than championing the fight against inflation and regulation, the great majority supported reform only when forced to do so. For example, in 1979 the Senate awarded jurisdiction over trucking legislation to the Senate Commerce Committee rather than the Judiciary Committee in what was generally perceived as a major victory for trucking interests (Arieff 1979). Even in 1980 right before a statute was finally passed, many observers thought that trucking deregulation would not succeed because the political costs of supporting it were too high for most congresspersons. These observers believed that the issue would be buried in committee as time ran out for the 96th Congress and the 1980 election approached.

The Motor Carrier Act of 1980 almost did fall by the wayside several times. Senator Packwood had trouble convincing 10 of the 19 Republicans on the Senate Commerce Committee to go along with crucial sections of the bill so that it would pass in the committee. The House was even more recalcitrant. Without numerous prods and veto threats from the White House, a far weaker bill—if any—probably would have been enacted (Alexis 1982, 1983). Legislative support for reform largely represented congresspersons' unenthusiastic response to environmental forces that were structuring their choices.

Finally, Derthick and Quirk's belief that the "abundant and committed leadership supporting [motor carrier] reform" (1985, p. 113) in Congress had a large impact on deregulation stretches the truth considerably.<sup>10</sup> Besides Ted Kennedy, few leaders in either the Senate or the House (and, for that matter, few members of the germane committees or of Congress in general) were strong advocates of the legislation (R.E. Cohen 1977, Mosher 1979). Even the authors concede that Senate Commerce Committee chairman Howard Cannon "was an unlikely reformer" (Derthick & Quirk

1985, p. 108). Perhaps the only leader who stands out was Bob Packwood, the ranking Republican on the Senate Commerce Committee, whose efforts Derthick and Quirk largely ignore (although his name was brought up in a number of this author's interviews).

For a variety of idiosyncratic reasons, they also dismiss the role played by leaders opposing reform. For example, they argue that Warren Magnuson's bad health kept him from being able to lead an effective opposition. Yet Magnuson, Appropriations Committee chairman, senior Commerce Committee member, and a strong ally of the truckers and the Teamsters, was at least well enough to propose a number of liberalizing amendments to the legislation on the Senate floor. Only Budget Committee chairman Ernest Hollings, also a key Commerce Committee member, is acknowledged as a capable Senate leader who opposed motor carrier reform. While admitting that all of the relevant leaders in the House had close ties to the trucking industry, Derthick and Quirk write them off because they allegedly "had no taste for the kind of open confrontation" (1985, p. 113) that successful opposition would have required. In short, Derthick and Quirk seriously exaggerate the extent to which the congressional leadership favored reform; quite frankly, it is just that the leadership's the opposition that did exist simply does not seem to have mattered. If key legislative actors had had their way, reform would have been buried somewhere in the congressional labyrinth—if not in the Senate, then certainly in the House.

A similar analysis of freight reform to Derthick and Quirk's has recently set forth by Robyn (1987). She too presents a host of necessary and sufficient factors and argues that the following four "ingredients" explain the changes in the regulatory regime: (1) strategic use of economic evidence and analysis to demonstrate the merits of the cause of reform; (2) formation and maintenance of an ad hoc coalition to lobby actively; (3) use of transition strategies to soften the opposition to change; and (4) strategic bargaining by the president to gain sheer political leverage. When mixed together, the final product was deregulation.

This explanation runs into many of the same pitfalls as Derthick and Quirk's. Rather than belabor the point, it suffices to summarize some of the problems with this particular mixture of explanatory variables. First, economic evidence on the costs of regulation was available long before reform. Robyn's answer—that empirical as compared to theoretical evidence is required to convince political decision-makers—is unconvincing. Empirical estimates of the savings associated with reform of the trucking industry, and even more dramatically, the airlines (Levine 1965, Jordan 1970), existed for many years without disrupting the regulatory status quo.

Second, the ad hoc deregulatory coalition was no match for the ATA/Teamster alliance. While groups readily signed on, they refused to commit the level of scarce resources that would signal to political decision-makers that their feelings were intense. Most of their lobbying focused on low-cost, low-commitment activities. Robyn, to her credit, realizes much of this. But once again, her response—that the lobbying effort was important because it gave favorably disposed congresspersons "something to hang their hats on" (1987, p. 146)—is unpersuasive.

Third, there is a big problem with the transition strategies argument: These techniques were largely eschewed. The most obvious corrective measure would have been to buy back certificates at their market value, which would still have left the consumer better off (Tullock 1978). While an obvious means of reducing opposition, she finds that proponents of reform correctly believed that victory could be theirs without offering such inducement. Instead of detailing the effective use of

transition mechanisms to moderate opposition, the author demonstrates that this allegedly key ingredient was largely irrelevant.

Finally, strategic behavior, not strategic bargaining by the president, was crucial for dismantling the regulatory system. For Robyn, strategic bargaining means, "manipulating information and managing impressions so as to reflect and transform the basic power relationships that underlie a conflict of interest" (p. 183). Contrary to her argument, however, presidential success reflected not the ability to bluff and lie but rather to shift the status quo unilaterally via strategic manipulation of rules and processes. Motor carrier reform was more than a poker game (Robyn's analogy) that the president won on the basis of boldfaced lies.<sup>11</sup> By only recognizing strategic bargaining, Robyn obscures why this president was successful while his predecessors failed. In the final analysis, this is yet another explanation grounded in the stochastic nature of the political world.

### *Congressional-Centered Approaches*

Another perspective on motor freight reform looms in the background: Deregulation is a product of congressional forces. Proponents of this perspective confidently assume that Congress controls regulation (and hence deregulation), an assumption that they perceive as analogous to profit maximization in economics (Weingast 1984). Although based on a stylized description of the real world, they believe this premise has tremendous predictive ability.

The implication for trucking regulation is that legislators' preferences and the structures representatives created, notably the committee system, guided the reform movement. While this remains an inchoate argument—indeed, some recognize that trucking deregulation might be difficult to explain this way (Weingast 1984)—it is nevertheless intimated by those touting the influence of the legislature.

Take the remarks of Kenneth Shepsle, a leading champion of the congressional-centered approach. When asked to comment on an abridged version of Derthick and Quirk's (1985) previously discussed analysis of deregulation, he says the following:

My basic point is that to appreciate why regulators choose to deregulate, it is important to understand the institutional regime in which they and their agencies are embedded. . . . At the center of this institutional regime is Congress and its committees, as lawmakers, delegators of statutory authority, and monitors of agency discretionary behavior. To answer the question of why the regulators chose to deregulate, one must examine what changed in the structure of Congress or in the preferences of key legislators. (Shepsle 1985 pp. 236-237).

At a trivial level, Shepsle's point is unassailable. Congress passed the Motor Carrier Act of 1980 after rejecting numerous reform proposals over the previous three decades. It was within legislators' authority to pass a statute that mandated enforcement—not dismantlement—of the regulatory regime. Given the structure of the American political process, the role that the legislature played had to be "key." This is not a testable proposition; it is a matter of definition.

At a more fundamental level, this formulation is problematic: For congressionally based explanations to be correct, a disjuncture in preferences and structure corresponding in magnitude and direction to the change from regulation to deregulation must have occurred. A new structure-induced equilibrium would have resulted. Many specific pitfalls with the argument that legislators were a driving force behind reform have already been mentioned in other sections of this analysis. Nor are there any convincing data—which must be exogenous to the dependent variable, motor carrier reform—showing that congressional preferences or structure did change. There is thus scant reason to believe that Congress dominated the reform process.

The legislative structure for overseeing the Interstate Commerce Commission remained largely unchanged through the deregulatory era. It is true that in 1974, several years before deregulation rose to any sort of prominence, authority in the House was passed from the Commerce Committee to Public Works and Transportation Committees. But this occurred for reasons that had little to do with transportation policy concerns (Davidson and Oleszek 1977), and it produced no substantial shifts in regulatory implementation. The one policy-oriented structural change that reached the legislative agenda—transferring oversight responsibilities to Kennedy's Judiciary Committee—was thwarted.

Overall, throughout the relevant period legislative preferences were quite stable and generally antagonistic to deregulation. Key committees remained in the hands of individuals hostile to reform efforts. Systematic analysis of committees' liberalism/conservatism and small community representation suggest far more stability than lability (this analysis is presented in Appendix A). Shepsle's and others' assertions simply lack substantiation. This does not imply that Congress is generally ineffectual, but rather that it is important to understand the circumstances under which legislators might lose.

It is nearsighted to dismiss the congressional-centered approach cavalierly. Its proponents raise questions that must be answered: What explains Congress's lack of a statutory response to deregulation? Did legislators simply make a series of mistakes? But to say that the Motor Carrier Act of 1980 represented the culmination of congressional dominance requires a great deal of wishful thinking.

#### *A Political-Economic Explanation: The Structure of Interactions*

No explanation of deregulation advanced to date fits the trucking case very well. But is there any general framework that is more satisfactory, or is trucking simply a deviant case? The answer advanced here is that ICC reform is explicable: One can gain a richer understanding of trucking deregulation by using a political-economic model integrating an analysis of political institutions, incentives, and processes with an examination of the economics of bureaucracy.

The logic of this general model has been developed elsewhere; it need not be reiterated here in full (Rothenberg 1987). However, a few comments on how it differs from the other explanations of deregulation are in order. For one thing, this perspective incorporates the executive branch—as well as the judiciary—far more rigorously than the other approaches. At most, the alternative specifications focus on the intermeshing of groups, congresspersons, and regulators. What happens

when the president, and to a lesser extent the courts, are brought into the picture?

Another key difference is that considerably more attention is paid to structure and its importance for maintaining the status quo. Previous explanations of deregulation gave short shrift to the rules and processes governing interactions and thus overlooked an important element influencing change. It is only by understanding the processes and forces that help perpetuate the status quo that it will be possible to predict when the system might break down.<sup>12</sup> Because of its significance for understanding systemic change, this point deserves a more detailed treatment before moving on to the specifics of motor carrier reform.

### *Maintenance of the Status Quo*

If one assumes that there is a regulatory program that benefits congresspersons and their interest group and bureaucratic allies, maintenance of the status quo does not require legislative action. It is a situation characterized by what community power theorists a number of years ago labeled nondecisions (e.g., Bachrach & Baratz 1963). The only choices made are implicit ones not to alter the existing state of affairs—policies are kept off the decision-making agenda. Political costs are minimized because the citizens bearing the costs do not perceive the issues as salient. Meanwhile, legislators reap political benefits in the form of group and bureaucratic support and an ability to claim credit with their constituents through casework.

Although presidential administrations may be at odds with Congress and want to alter the status quo, their legislative initiatives can simply be ignored. If an unpopular bill designed to change the current state of affairs is introduced, it is likely to languish or be voted down in committee. Alternatively, it may be defeated in either house of Congress. In brief, legislative control of the political process may simply entail blocking presidential initiatives. The executive knows that he is at a strategic disadvantage. He therefore has a disincentive even to propose such legislation, and he is likely not to offer it at all or to introduce it primarily for symbolic purposes.

To summarize: The executive is in an extremely difficult position if he asks legislators to change the status quo they support. While this point is very obvious, its implications for understanding trucking deregulation are profound.

Congressional control is far more problematic if legislators must actually change the status quo. Presume that the president is presented with an opportunity to alter conditions without congressional assent (examples of such opportunities will be discussed shortly). The implications of this situation for political decisions are quite different. Once the status quo is changed, Congress is forced to legislate if it wishes to return to the prior state of affairs. But in acting, representatives must anticipate the probability of a successful presidential veto and maintenance of the new status quo. They must also take into account the possibility that without a legislative solution—either because Congress takes no action or is vetoed—the executive will push the political process further and create a status quo deviating even more from congressional preferences. Representatives have to compare a new legislative status quo to the likely results of congressional inaction. In short, the executive will have moved from a strategically disadvantaged position to an advantaged one. The president may veto any congressional alternative that he does not like—although he too will take into account the probability of being overturned.

The difference for Congress between "making" a nondecision and fashioning the two-thirds majority needed to override a presidential veto is enormous. Publicly casting a vote to restore the previous status quo may have considerable political ramifications, e.g., when the action clearly benefits a concentrated interest. The chief executive may mobilize public opinion on his behalf to raise further the costs of congressional opposition (Kernell 1986). Partisan considerations may also come into play for members of the president's party. Furthermore, the executive may exchange favors with enough legislators to sustain his veto.

In all likelihood, situations in which the executive and the legislature find themselves in conflict will not end in a major showdown. Rather, decision-makers will anticipate and adapt. The executive will accept a bit less than his preferred state of the world, and the new status quo will be made somewhat more palatable to congresspersons and their group allies. Revelations of preferences will be adjusted to reflect this new situation, i.e., congresspersons and group representatives, forced to support much of the president's program, will attempt to claim credit for its benefits.

The implication of the preceding discussion is clear: The executive may have an incentive to alter the status quo if he can do so without congressional action. At a minimum, two conditions must be satisfied. First, actions must be able to survive judicial scrutiny—they must lie within the current statutory mandate. Second, they cannot require any additional budgetary authorization. The president is in an even stronger position if agency budget cuts by the legislature are not a plausible form of punishment.

Even when these conditions are met, however, the executive must calculate the political costs and benefits and decide whether it is worth antagonizing congresspersons and their allies. Presidents' limited political capital must be spent carefully; alienating legislative decision-makers and key political groups on one issue may compel the chief executive to acquiesce on others. Nevertheless, when a policy is assigned high enough priority, a president will incur these costs.

Before examining the trucking case, one more question must be answered: What devices can the executive use to alter the status quo? The principal nonlegislative means is to induce bureaucratic policy changes. This, in turn, requires that key bureaucratic decision-makers behave as politicians or professionals adhering to norms that favor changes in the desired direction (Wilson 1980), rather than as careerists or professionals with norms that are more compatible with the status quo. It also probably entails naming a chairman or agency head willing to push the presidential initiative vigorously. The chief executive must either appoint politicians to crucial bureaucratic posts or convince incumbent careerists to switch roles. These bureaucrats can then employ their discretionary powers to advance the presidential program.

An obvious counter to this discussion is the following question: Can't legislators anticipate and circumvent presidential initiatives? This might be true if legislators were perfectly rational and fully informed (but see Hammond, et al. 1968). If the more plausible assumptions of imperfect information and bounded rationality are adopted instead, it becomes apparent that representatives cannot always thwart presidential initiatives. If legislators are less than omniscient, chief executives can profit from strategic employment of rules and processes. Instances of presidential management of the bureaucracy at congressional expense can be conceptualized in just such a fashion. Motor freight regulation is only an extreme case of a general phenomenon.



*The Case of Trucking Deregulation*

**Introduction: Early Reform Efforts, 1945-1970**

The idea of transportation reform did not originate in the 1970s. As Thomas Gale Moore puts it, "virtually from the date the Motor Carrier Act was passed, economists have criticized the idea of regulating such an inherently competitive industry" (1978b, p. 41). From the beginning of the post-World War II period, presidential administrations voiced their doubts about the status quo. Calls for change were to be expected given the growing awareness of the costs of ICC regulation and the executive's institutional position (i.e., his accountability to the general public rather than a narrow constituency and his weak ties to organized groups). Pronouncements and proposals emanating from the executive branch indicate that for the most part, presidential opposition grew stronger from Truman onwards. Nevertheless, restructuring the ICC remained problematic because chief executives were unwilling to devote a great deal of their administration's time or resources to changing the status quo; other participants in motor carrier regulation both inside and outside of the commission understood presidential constraints and reacted accordingly. Presidential demands largely fell on deaf ears.

As would also be expected, congresspersons supported the basic structure of ICC regulation. All legislators had regulated trucking companies in their districts, and virtually everyone had constituents belonging to the Teamsters. Representatives' principal complaints concerned questions of implementation such as regulatory delay, intermodal price ratios, the treatment of small firms, and, of course, constituent casework. They were hostile to any executive suggestions —whether it be for greater presidential control or for market-oriented reforms.

The executive was even denied the right to name his own permanent chair until 1970; the commission was the final independent regulatory agency where the president lacked this authority.<sup>13</sup> The chairmanship of the ICC was rotated annually among the commissioners, a practice that provided the acting chairman with few opportunities for guiding the commission in any given direction and little allegiance to the president (Landis 1960). Truman's reorganization proposal (see the Hoover commission report [Commission of the Executive Branch of the Government 1949]; see also Dearing & Owen 1949), which incorporated an appointed chairman, was rejected by Congress because of strong group pressure (Kohlmeier 1969). Succeeding administrations continued to call for a permanent chair but received little encouragement until the late 1960s.<sup>14</sup>

This hamstrung chief executives trying to push the ICC toward endorsing a freer market. In many bureaucracies, policy shifts occur when presidents take office and appoint new chairpersons or agency heads who have different orientations from their predecessors (Welborn 1977, Freedman 1978); this simply was impossible at the ICC. Leaders did emerge at the commission, usually the chairs of the agency's specialized divisions, but they were not of the president's choosing. Not surprisingly, the ICC became more politicized after the executive was delegated the authority to name the chairman.

Executive criticism of regulation first surfaced in connection with the Truman administration's disenchantment with the antitrust immunity enjoyed by the trucking and railroad rate bureaus, which permitted both railroads and motor carriers to set their rates collectively (Davis & Sherwood 1975). This concern primarily emanated from the Department of Justice (DOJ), which was quite adamant in its belief that both the trucking and railroad rate bureaus violated antitrust laws. The ICC—along with the regulated motor carriers and especially the railroads—maintained that the Interstate Commerce Act effectively exempted the rate bureaus from these laws. However, DOJ was determined to test this claim in the courts and pressed its case quite vigorously during the 1930s, arguing that transportation should be subject to the same antitrust provisions as other industries. The department's crusade was temporarily halted by World War II. In 1942 DOJ commenced two legal actions against the railroads and motor carriers, but the Chairman of the War Production Board issued a certificate temporarily halting both investigations. In 1944, DOJ started its assault anew (*State of Georgia v. Pennsylvania Railroad Company*, 324 U.S. 439 [1945]); and this time it had presidential support.

In response, advocates of the rate bureaus, particularly the railroads, lobbied strongly for legislation to end the department's legal actions. A bill that would explicitly exempt rate-making associations from antitrust laws was initially introduced in 1944. As the threat of judicial action to invalidate the rate bureaus increased, so too did groups' clamor for preemptive relief. In 1948, Congress responded by passing the Reed-Bulwinkle Act, which granted antitrust immunity (for discussions, see J.C. Johnson & Rakowski 1980, Bunce 1982). Despite the controversy surrounding it, the legislation was approved by oversized majorities (60-27 in the Senate and 274-53 in the House), which reflected the lack of a strong opposing constituency. The bill stipulated that the ICC should approve rate bureau agreements if they were deemed to further the National Transportation Policy and allow independent carrier filings of tariffs. Truman vetoed Reed-Bulwinkle only to be overridden with remarkable ease by Congress (63-35 in the Senate, 297-102 in the House).

This bill, which became Section 5a of the Interstate Commerce Act, largely insulated rate bureaus from judicial sanctions in spite of continued protestations from DOJ. Transportation interests had flexed their political muscle in the legislature and the status quo had been preserved. Government regulation was not yet the dirty word it would become in later years, which meant the political costs of overriding the president were not as high; and there were few countervailing forces to bolster opposition from the executive branch.

During the next thirty years, presidential attacks continued. Criticisms encompassed not only rate-making but the regulatory system more generally. The desired changes had one common denominator: a greater reliance on the market. Early in his administration, Eisenhower appointed a high-level commission headed by Secretary of Commerce Sinclair Weeks to analyze transportation regulation. The commission's basic recommendation—to depend more heavily on competitive forces—was only the first of many similar proposals (Presidential Advisory Committee on Transport Policy and Organization 1955). While the railroads were sympathetic to any recommendation giving them greater pricing freedom, the truckers were in opposition; and no concrete action was taken in response to the commission's suggestions. Like the Weeks commission, outgoing Secretary of Commerce Frederick A. Mueller (U.S. Dept. of Commerce 1960) voiced objections to transportation regulation at the end of the president's term. Again, these calls were to no avail: The Eisenhower

administration had other priorities and allowed transportation reform to slip off the agenda.

President Kennedy was the chief executive in the pre-1970 period who voiced the strongest arguments for greater reliance on the marketplace. Kennedy's own Commerce Secretary, Luther H. Hodges, who developed a report for the president detailing recommendations for reform, was a major force for change (see also Landis 1960). The president issued a special Transportation Message in 1962 (Kennedy 1962) that was based largely on Hodges's suggestions, which were influenced by the economic analysis of John Meyer and others at Harvard (Meyer et al. 1959). In his message, Kennedy called for the abolition of minimum-rate regulation in the shipment of bulk commodities for all transport modes. While the plan had a number of attractive features from the railroads' standpoint, it "was buried in Congress, opposed by the truckers, the barge operators, and the rate setters (in this case, the Interstate Commerce Commission)" (Wilson 1971, p. 41).

Although the Johnson administration endorsed the Kennedy proposals in principle, it did not press the issue. During these years, a presidential task force on transportation policy again recommended increased dependence on market forces. Specifically, its members advocated the removal of entry barriers for common carriers, most ICC minimum-rate regulations, and carriers' right to request rate suspension.<sup>15</sup> Once again, however, there was little movement on this issue. Johnson's interest lay in the less politically controversial task of establishing the Department of Transportation (DOT) (see his 1966 Transportation Message). A conscious decision was made that while merging the ICC into DOT was a long-term goal, in the short-term it was only feasible to transfer the commission's safety functions to the new agency (Redford & Blissett 1981). Johnson traded off ICC reform proposals for group acquiescence to the creation of DOT and the transfer of the ICC's duties of overseeing carrier safety.<sup>16</sup>

In sum, despite executive calls for reform and the accumulating evidence on the social welfare costs of regulation, there was little change. Presidential lack of enthusiasm for far-reaching transformations was not confined to policy toward the ICC but reflected a general apathy toward economic regulation (see, for example, Cary 1967). Given legislative and interest group hostility, the political costs were simply too high. Other issues—especially social welfare programs and foreign policy—dominated the presidential agenda. Inefficiencies were tolerated as long as economic conditions were favorable. Presidents from Truman to Johnson paid little heed to economists' clamor for motor carrier reform; they were content to press for incremental changes in ICC policy. Nevertheless, lack of presidential commitment could not be taken for granted (Salamon 1981, Viscusi 1983).

Chief executives' concern with regulation began to deepen with the acceleration of inflation and the decline in the economic growth rate in the late 1960s. Many journalists writing in the early 1970s believed that substantial changes were imminent. However, these predictions would prove to be very wrong. Reformers' early hopes were soon dashed; it would take the entire decade to remold the regulatory system.

## The Increasing Salience of Regulatory Reform

Through the 1960s presidents predictably gave regulatory reform relatively low priority. Other issues occupied center stage on their agendas. The situation started to change with the advent of stagflation—the combination of stagnant economic conditions and rapid inflation that began plaguing the economy in the late 1960s. Economic issues again moved to the forefront of American political concerns. When economic conditions started to sour, administration decision-makers commenced to look in earnest for solutions. One that surfaced quickly was liberalization of economic regulation generally and of trucking regulation specifically. Although chief executives' preferences for regulatory reform were not new, the urgency attached to them was.

Motor carrier reform had another political allure that did not go unnoticed. Deregulation could be touted as an example of administration responsiveness to the burgeoning consumer movement, which had been critical of the ICC (Fellmeth 1970): It was a perfect marriage between liberal politics and economic orthodoxy.

Deregulation was offered to presidents beginning with Nixon as a partial answer to the nation's economic woes, especially inflation. Unlike legislative decision-makers, who seemingly took a decade to make this connection, presidential administrations linked the two together almost as soon as inflation began its precipitous rise and became a thorny political problem. Despite Nixon's ties to the Teamsters and the truckers, the members of his Council of Economic Advisors strongly favored deregulation—as did future councils (Barrett 1971). The Departments of Transportation and Justice heightened their support for reform; even the Federal Trade Commission got into the act when its chairman took the nearly unprecedented step of openly denouncing trucking regulation in 1974.

Perhaps the most frustrating event for advocates of deregulation was the Nixon administration's abandonment of transportation reform in 1971. At first, it appeared that the president was prepared to support actively a package prepared by DOT. This 1971 proposal, labeled the Transportation Regulatory Act, was comprehensive (Moore 1972). It would have liberalized entry into motor transportation, limited the commission's power to suspend rates, restricted the application of Section 5a of the Interstate Commerce Act (the Reed-Bulwinkle provisions) to joint rates (those proposed by carriers linking their operating authorities to offer a given service) and through routes, and permitted tariffs to be raised or lowered without regulatory interference when they fell within a zone of reasonableness. With the 1972 election approaching, however, Nixon's commitment withered: The White House withdrew its endorsement before the bill was introduced in Congress in order to gain Teamster support in the election (see, for example, Moore 1984). The truckers eagerly displayed their gratitude—they were the largest contributors to Nixon's reelection effort (*New York Times* 1973). Hearings were held in the spring of 1972, but the bill never left committee.<sup>17</sup>

The hopes of the proponents of deregulation rose again when Ford succeeded Nixon in 1974. Inflation was running at 12 percent annually, and the new president lacked the ties to the truckers and the Teamsters that Nixon had. The Ford administration attached sufficient importance to solving the nation's economic woes that it was willing to forego the benefits of establishing alliances with these groups.

Transportation reform was a favorite solution advanced by the prominent economists advising the new administration on how to deal with rising costs (see, for example, the Ford administration's papers on regulatory reform in MacAvoy & Snow 1977). In November 1975, Ford sent new legislation—labeled the Motor Carrier Reform Act—to Capitol Hill. This bill principally called for drastically easing the requirements for entry into the industry. Prospective entrants would merely have to prove that they were fit, willing and able, i.e., the public convenience and necessity criterion for common carriers and the public interest requirement for contract carriers would be dropped.<sup>18</sup> However, legislative proposals for trucking reform once again foundered in the face of congressional and interest group hostility: The new legislation failed to escape committee.

While prognostications of change were heard in some quarters, little headway was made on the legislative front during the first half of the decade, despite the increasing importance presidents placed on reform. Neither the 1971 DOT legislation nor the Ford proposals made any progress: They had no constituency supporting them in Congress. Or as one observer put it, "a funny thing happened on the way to the slaughterhouse" (Byrne 1976, p. 18). What would it take to circumvent group opposition and congressional intransigence?

#### **Administrative Changes at the Interstate Commerce Commission: 1971-1976**

While attention focused largely on congressional reform initiatives, movement was slowly brewing on another front: at the Interstate Commerce Commission itself. The attitudes of a number of those administering trucking policy were gradually changing. Proponents of reform won some limited victories at the commission, setting the stage for more dramatic changes in the years to come.

Behind this albeit modest movement at the ICC was the commissioner appointment system (Rothenberg 1987). ICC commissioners were selected for patronage reasons—whether presidential or congressional—rather than for their commitment to regulatory policy. For many years, this system worked extremely well: New appointees were socialized by the regulatees (especially the omnipresent motor carriers), their colleagues, and especially their staffs. Regulatory "wild cards" (i.e., individuals without track records from which reasonably accurate predictions about future performance can be derived) were transformed into advocates.

From the standpoint of regulation's supporters, the selection process started breaking down in two ways. First, some of the wild card appointees, whom proregulatory interests believed could be induced to support the status quo, began favoring at least some reforms. While they certainly were not ideologues, these commissioners started to take some of the executive branch's criticisms seriously, either for pragmatic reasons—especially the desire to be reappointed by the president—or simply because they became convinced that some change was necessary. Second, President Ford appointed commissioners who, at a minimum, supported a substantial degree of regulatory reform.

By themselves, the wild card appointees who favored reform could not have done much damage. At the end of the Nixon administration, only three of the ICC's eleven commissioners might have been receptive to any significant alteration in the status quo. The ICC of the late 1960s and early 1970s was still wedded to regulation (for a particularly harsh assessment, see Fellmeth 1970). Nevertheless, one could reasonably categorize one Johnson appointee, Virginia Mae Brown, as willing to liberalize the existing state of affairs. Nixon nominees Robert C. Gresham and A. Daniel O'Neal<sup>19</sup> could be similarly characterized. (Another Nixon appointee, Chester M. Wiggin, was perhaps considered the one most likely to lead the forces for change, but he died in an airplane crash only eight months after assuming office.) All three eventually became part of the majority supporting regulatory reform in the late 1970s.

At best, this threesome constituted an unstable minority in the face of a committed proregulation majority. Only as reform gained steam did Gresham's and O'Neal's commitment apparently deepen; Brown, it was suggested in my interviews, voted more proderegulation during the Carter administration to keep her job. It is important, however, not to exaggerate the degree to which these wild card commissioners favored deregulation—and the extent to which they could have moved the commission away from its basic policies—before the reform movement began gaining strength through presidential management.

With the advent of the Ford presidency and the increasing salience of trucking regulation in the 1970s, efforts at administratively centered reform increased. An important first step was a series of attempts to alter the composition of the commission. Ford added two commissioners upon assuming office who were clearly committed to change: Robert J. Corber and Betty Jo Christain. Unlike so many previous appointees, both had considerable experience, Christain as a long-time staff member at the ICC and Corber as a lawyer with extensive dealings in the transportation industry. While Corber was not a deregulator per se, he favored reform.<sup>20</sup> Christain became a strong ally of O'Neal's during the Carter years when administrative deregulation began in earnest. Slowly, the median position within the commission began to shift.

Both of Ford's selections reflected "a change in philosophy" by the chief executive (Moore 1984, p. 4): Commission appointments attained a heightened significance. The president was no longer willing to pick commissioners solely on the basis of traditional political criteria. Introducing a new breed of commissioners at the ICC facilitated the president's efforts to engineer the reform process.

It is difficult to pinpoint the beginning of the reform era within the ICC. Perhaps the first small victory for its advocates occurred in 1971 with the commission's decision in *Bowman Transportation* (114 M.C.C. 571, see also *Mayfield Sons Trucking Co. Extension-Kentucky*, 108 M.C.C. 565 [1969]). *Bowman* represents the ICC's initial, tentative step toward pursuing entry policies that were based on the need for competition rather than on the protection of existing regulated carriers. However, this decision was not solely a product of reformist sentiments within the commission. Rather, it partially reflected a decade-long evolution in judicial policy (Ponder 1977; see also Leland 1978, Thoms 1983).

The *Bowman* case involved eight common carrier applications for certificates to transport general commodities in the South. In 1969, ICC hearing examiners denied all of the applications. Two years later, however, the commission overruled three of these decisions. What was especially noteworthy was that the commissioners supported their grants of authority by pointing to the consumer benefits that would accrue: They maintained that the losses of protestants (the term used by the ICC) from the new competition were not significant enough to outweigh the large gains to be made by the public.

Not surprisingly, this decision was immediately challenged in the courts. The protestants' initial efforts were successful—the district court invalidated the ICC action and ruled that the commission's decision was vaguely stated and supported, as well as arbitrary and capricious (364 F. Supp. 1239 [W.D. Ark. 1973]). The Supreme Court, however, upheld the ICC (419 U.S. 261 [1974]). For the first time, it interpreted the commission's statutory mandate as encompassing more than simply protecting existing carriers from competition.

It must be reiterated that the ICC's *Bowman* decision was partially a product of previous lower court rulings (the most prominent one was *Nashua Motor Express, Inc. v. United States*, 230 F. Supp. 646 [D. N.H. 1964]). In addition, its effects should not be overemphasized. The impact of newly proposed services on existing carriers remained paramount in the commission's decision-making. Nonetheless, with this ruling the ICC began to move away from the *Pan American* entry criteria that it had followed for more than three decades.

As commission support for reform strengthened, proponents of deregulation began to win a few more administrative victories. A major stride forward was taken in June 1975 with the issuance of Ex Parte No. 297 (349 I.C.C. 811 [1975]; see also Chapter 6). Although this pronouncement contained a myriad of provisions, its crucial ruling was that rate bureaus could not protest independent filings by members. Advocates of these associations feared that this action would significantly weaken their ability to maintain the rate structure and even threaten the viability of the bureaus themselves. Consequently, the pronouncement was vigorously criticized by supporters of the regulatory system (see, for example, the discussions in Davis 1980).

On December 30, 1976, the commission made another significant move toward reform: It approved a major expansion of the bounds of regulation-free commercial zones and thus exempted more truckers from its jurisdiction (Ex Parte No. MC-37; the commission's action was sustained in *Short-Haul Survival Committee v. United States*, 570 F. 2d 240 [9th Cir. 1978]). The ICC was badly split on this decision. The more traditional members (notably, veteran commissioners Hardin, Murphy, and Stafford, who issued a joint dissent), like members of the trucking community, were strongly opposed.

Administrative victories for the reformists remained sporadic. The balance of power on the Ford commission still favored regulation. In addition, progressive forces faced a major obstacle in ICC Chairman George Stafford. A Kansas Republican appointed in 1967 and selected as the commission's first permanent chairman by Nixon in 1969, Stafford was a strong defender of the status quo and openly hostile to proposals to increase competition. It seemed clear that achieving more far-reaching change required Stafford's ouster.

By 1975 Ford had resolved to find a new head for the commission. However, the administration's initial choices for the job—Chicago financier Robert Podesta, Deputy Under Secretary of Transportation John Snow, and Under Secretary of Transportation John Barnum (*Traffic World*, 20 Oct. 1975)—all declined. Then, as the election approached and Ford faced a struggle for his own party's nomination, he began to employ regulatory appointments for electoral purposes.<sup>21</sup>

With the key New Hampshire primary imminent, Ford nominated that state's former attorney general, Warren B. Rudman, as commissioner and chairman of the ICC. Rudman's selection was unpropitious. Not surprisingly, his nomination just days before the New Hampshire primary evoked cries that Ford was using the appointment process for political gain. Furthermore, Chairman Stafford, long-time administrative assistant to former Kansas Senator Carlson, had considerable support from midwestern Republican senators, including fellow Kansans Dole (a particularly powerful benefactor) and Pearson, as well as Hruska and Curtis of Nebraska. Rudman had one more strike against him: He had served on the three-man panel that had denied Democratic Senator John Durkin of New Hampshire his seat in the hotly contested 1974 election. The race had been rerun; and Senator Durkin, now a member of the Senate Commerce Committee, had won (Cawthorne 1976). Durkin not only held a grudge but also feared (according to one former committee staffer) that Rudman would try to make a name for himself at the commission as a preliminary to running for Durkin's seat. In light of Durkin's hostility and the opposition of high-ranking Republicans, the Senate Commerce Committee simply refused to hold hearings before the election (*Traffic World*, 1 July 1976). Rudman withdrew his name from consideration.<sup>22</sup>

Ford could claim some administrative victories at the ICC. He left at least a minority bloc favoring reform at the agency (Moore 1984). But there was still too much internal opposition for the executive to be able to attack the basis of trucking regulation. The impact of administrative changes continued to be marginal, rather than striking at the heart of motor carrier regulation—the entry and rate-making systems.

### **The Carter Years: Successful Deregulation through Administration**

Jimmy Carter entered the White House determined to bring about economic deregulation (see, for example, White 1981, Robyn 1987). One need only examine the yearly *Economic Report of the President* or look at the individuals in the new administration—Alfred Kahn and Darius Gaskins, most prominent among them—to discern the priority given to regulatory reform. But why did the new administration succeed where its predecessor had failed?

The answer lies both in advantages Carter had over Ford and in his choice of strategy. Taken together, these factors enabled Carter to implement deregulation, first through administrative changes and then via passage of the Motor Carrier Act of 1980.

Perhaps Carter's greatest advantage was inheriting Ford's commission. Unlike his predecessor, Carter took office with a number of commissioners friendly toward his policies in place. In addition, having a full term gave Carter the time to form a solid proregulation majority at the ICC. These two factors greatly enhanced his ability to achieve reform by utilizing administrative discretion.



The Carter White House perceived its strategic options as threefold (as detailed in an early 1978 staff "option" paper; see Butler 1977): propose legislation mandating significant deregulation, encourage ICC reforms backed by a congressional resolution, or rely exclusively upon the commission. After considerable debate (Arieff 1978), the third alternative was selected. Unlike Ford, Carter eschewed an immediate legislative solution (it was clearly unfeasible given legislative preferences). Instead, he opted for a deceptively simple strategy—and one that is consistent with the political-economic explanation advanced here. As Simon Lazarus, former Associate Director of the White House Domestic Policy Staff under Carter, put it, this strategy was to give "deregulation opponents a strong incentive to seek a new law themselves, defining the limits of the ICC's authority" (1981, p. 120).

### *The Strategy of Reform*

More specifically, Carter encouraged the commission to use its rule-making and juridical capacities to change the status quo. This plan of attack necessitated the appointment of an aggressive, committed chairman to spearhead the reform effort. It also required fostering proreform sentiment on the commission through new appointments, conversion of existing members, or simply failure to replace hostile members. A legislative solution was pursued only after the status quo had been changed. The administration did not introduce motor freight legislation until June 1979, two and a half years after taking office. With trucking reform already in place, congresspersons were then forced to act in the public spotlight with the threat of a veto hanging over their heads and the prospect of more dramatic changes if they did not respond. As noted previously, the political costs for legislators of tightening the government's hold on the market once it has been loosened are much higher than those of resisting reform in the first place.<sup>23</sup>

The new administration's first key move was to name Commissioner A. Daniel O'Neal chairman. O'Neal's nomination reflected Carter's dedication to overhauling trucking regulation and his recognition of political realities. By choosing a chair from the current members, the senatorial confrontations and delays that prevented Ford from replacing Stafford were avoided.<sup>24</sup> Moreover, O'Neal, who understood that his selection was conditional, proved to be a forceful, reform-oriented chairman of an agency that did not have a tradition of strong leadership. Stafford, the first appointed chair, had been a rather weak director of the ICC. O'Neal redefined the chairman's role, and the agency gained a strong-willed leader firmly committed to regulatory reform.

O'Neal immediately set out to move the commission toward deregulation. To undercut powerful division chairmen, he replaced the ICC's narrow jurisdictional structure with general divisions. The new format, coupled with a reduction in the number of commissioners (to be discussed shortly), allowed all members to vote regularly on the full gamut of regulatory issues (Edles 1982). It prevented two-person proregulation majorities from controlling outcomes on the three-person divisions; these decisions could be overturned only if the case were appealed to the full commission.

The new chairman also worked to stimulate proreform sentiment at the commission. For one thing, there was a considerable number of conversions to the cause within the ICC (Derthick & Quirk 1985). O'Neal, and to some extent Betty Jo Christain, offered a breath of fresh air to staffers who found the ICC moribund and the commissioners heading it aged and lifeless. Some ambitious staffers hoped to ride on the post-ICC coattails of these dynamic commissioners. In comparison to the archetypal commissioner who would stay for many years and then retire, these newcomers were going somewhere after their agency service.

For another thing, O'Neal brought people more sympathetic to reform into the agency. Unlike previous commissioners, who simply took over their predecessors' staff, O'Neal deliberately invigorated the ICC with new blood. While Congress was an impediment for a president bent on energizing the commission with his appointment powers, the legislature could not prevent the chairman from using his authority over staff appointments to shake things up. Thus, a variety of mechanisms helped push the ICC toward reform.

Continuing along these lines, in June 1977 O'Neal appointed a task force to recommend ways of easing the regulatory and administrative burdens of trucking regulation. One month later, it returned with thirty-nine recommendations, which were sternly criticized by the ATA and the Teamsters. The task force took particular care to advocate changes that did not require new legislation or budgetary increases (Holsendolph 1977) and consequently limited the ability of interest groups and their congressional allies to circumvent the commission's efforts. Within a year, the ICC had adopted one-third of these recommendations and was close to supporting twenty-three of the remaining twenty-six.<sup>25</sup>

Perhaps the Carter administration's most critical decision, however, was to adopt the task force's recommendation to reduce the number of commissioners from eleven to seven (the number of commissioners actually shrank to six by the end of 1979)—a move that the president had actually been considering before he appointed O'Neal. Interestingly, the administration justified its action by arguing that it would foster coordination and increase efficiency.<sup>26</sup> If these were indeed the reasons for the change, it certainly had a number of beneficial by-products, which undoubtedly did not escape the proponents of reform.

Departing commissioners who were hostile to deregulation left the ICC without being replaced. Gradually, the intracommission balance of power shifted, and a stable majority favoring deregulation emerged. While reform might have come a few months earlier if new commissioners had been successfully appointed, by relying on attrition the administration effectively excluded Congress from much of the process. At a time when the need for congressional approval of appointments would have been utilized to maintain the regulatory system, legislators could only look on as it was dismantled. Carter could, in one observer's words, "'pack' the ICC with fervent deregulators" without facing a single battle in the Senate (Dempsey 1980, p. 316).

Perfect foresight would have enabled legislators and their group allies to cut deregulation off at the pass. Future control over the implementation process could have been assured by active decisiveness in the 1960s and early 1970s. Legislative insistence on appointing proregulatory ideologues could have rendered administrative deregulation an unsupportable strategy. Instead, Congress allowed the ICC to be a dumping ground for patronage appointment of individuals with no strong preferences on motor freight regulation. Representatives thereby unwittingly opened the

doors for the creation of a deregulatory minority, which President Carter was able to transform into a majority.

Such omniscience is too much to expect. The appointment system had worked quite well over the years, and there seemed little chance that chief executives would gain a regulatory majority. Legislators respond to constituent "fire alarms" (McCubbins & Schwartz 1984). Since neither the truckers nor the Teamster representatives sounded any warnings about administratively induced motor carrier reform before the mid-1970s, representatives were content to sit on the sidelines. The fact that Ford was so easily rebuffed when he tried to nominate a reform-minded chair only buttressed this confidence. Subsequent legislative initiatives, it was assumed, could be buried in the labyrinth of the committee system in same manner that the 1971 DOT and the 1975 Ford bills had been.

### *The Content of Reform*

With the gradual evolution of a proreform majority, however, the commission tackled the task of stripping away 40 years of regulation. At first, O'Neal and the ICC moved slowly in changing the substance of motor freight policy; only a few tentative steps were taken in 1977 (see Ex Parte No. 55 [Sub-No. 25], 42 *Fed. Reg.* 62486 [1977]). But by 1978 a clear proderegulation majority had emerged at the ICC, and the pace of reform quickened. The commission's initial efforts centered on removing restrictions on entry into the trucking industry. Its overall impact was phenomenal: In four years (from 1975 to 1979) the number of applications for entry increased 700%, and the number approved grew by over 800% (ICC 1977-1981, Moore 1983).

In opening the trucking industry to competition, the commission made widespread use of its rule-making authority—something previous commissions throughout the ICC's 90-year history had been loath to do (for a more detailed description, see F.R. Kahn 1979). In its rulings in 1978 and 1979, the commission announced that it would take the following actions:

1. limit who could protest operating certificate and permit applications to those who had participated in handling the relevant shippers' traffic (Ex Parte No. 55 [Sub-No. 26], 43 *Fed. Reg.* 50908 [1978]);
2. grant common carrier authority whenever it comports to the demonstrated need for the proposed service, unless those opposing the application can establish that the entry of a new carrier would endanger or impair the operations of existing common carriers contrary to the public interest—thereby raising the level of injury to the protestants that would be necessary for an application to be denied (Ex Parte No. MC-121, 43 *Fed. Reg.* 56978 [1978]);
3. consider rates in determining whether additional service is needed (Ex Parte No. MC-116, 44 *Fed. Reg.* 10064 [1979]);
4. allow private carriers to apply for operating certificates and permits (Ex Parte No. MC-118, 43 *Fed. Reg.* 55051 [1978]);
5. eliminate the rule of eight, which traditionally restricted the number of shippers that contract carriers could serve (Ex Parte No. 119 [1979]);

6. ease the restrictions on dual operations by truckers as both common and contract carriers (Ex Parte No. 55 [Sub-No. 27], 43 *Fed. Reg.* 14664 [1978]);
7. facilitate the elimination of operating restrictions that made truckers follow circuitous routes (Ex Parte No. MC-106, 130 M.C.C. 167 [1978]);
8. allow carriers of exempt agricultural commodities to carry regulated products on their previously empty backhauls (Ex Parte No. MC-127, 44 *Fed. Reg.* 48304 [1979]);
9. enlarge the zone within which motor carriers operating incidentally to air freight services could operate unencumbered by ICC regulations (MC-C-3437, 131 M.C.C. 87, 44 *Fed. Reg.* 3295 [1979]); and
10. allow private carriers to obtain commission permits and certificates (Ex Parte No. MC-122, 44 *Fed. Reg.* 42828 [1979]).

The commission did not rely exclusively upon rule-making, however; it also utilized adjudicatory methods to make policy. Two precedent-setting cases stand out in particular (for other key cases, see Schack & Kasson 1978). The first, *P.C. White*, illustrates just how quickly the commission was changing. In the original case, decided in prereform 1974, the commission denied an application on the grounds that the existing service was adequate. When the losers appealed to the courts, the D.C. Court of Appeals held that the ICC had failed to consider possible consumer benefits (*P.C. White Truck Lines, Inc. v. United States*, 551 F. 2d 1326 [D.C. Cir. 1977]) and remanded the case back to the commission. In the traditional days of regulation, the ICC most likely would have simply rewritten its original decision in a more judicially acceptable manner. However, on reconsideration in 1978, the revamped commission reversed itself and granted the application on the basis of the resulting consumer benefits. In the process, the ICC finally discredited completely the second *Pan American* criterion—whether the purpose can and will be served as well by existing carriers, regardless of price.

The commission moved even further toward undoing entry restrictions in *Liberty Trucking Co., Extension-General Commodities* (133 M.C.C. 573, 575-576 [1979]). In this case it not only decided that competition is relevant, but it went much beyond and ruled that it is of paramount importance. Specifically, the ICC asserted that harm to a particular carrier is relevant only if there is a corresponding impact on the public interest and that competition is generally presumed to be in the public interest. The rules of the game had shifted in favor of competition and the marketplace.

The commission's decisions in cases such as *P.C. White* and *Liberty* and its use of its rule-making authority opened the gates to a flood of new applications. The ICC did not rest on its laurels. In 1979 it proposed the establishment of master certificates, which would allow carriers to transport a given kind of traffic without having to apply for more specific certificates or permits as long as the carriers' overall operations were not inconsistent with the public convenience and necessity or the public interest. Moreover, the commission made it clear that it was ready to attack the rate-making process. It suggested the creation of a zone of rate increases that could not be suspended and signaled its intention to curb drastically the scope of the rate bureaus' permissible activities. The ATA found the prospect of such changes particularly threatening.

## Congressional and Group Response to Administrative Change

Neither Congress nor the ATA and the Teamsters were prepared to watch passively while the ICC dismantled motor regulation. While legislative sentiment toward deregulation had long been negative, the ATA's and the Teamsters' opposition to changes at the ICC brought added pressure to bear on representatives. Both interest groups mounted vigorous campaigns in reaction to the commission's rapidly advancing reform program and in anticipation of future legislation. They simultaneously mobilized their forces in the hinterlands and lobbied actively in Washington. Although proponents of deregulation did not lack group support,<sup>27</sup> they were no match for the ATA/Teamster alliance.

It is no wonder that many people, reassured by the reform movement's numerous failures in Congress, still believed that there was little chance that the legislature would pass a deregulation bill. This group included the Teamsters themselves, whose Legislative Counsel, Bartley O'Hara, confidently predicted as late as July 1978 that trucking deregulation was "the one issue that the man standing on the loading dock understands. I don't think they [the Carter administration] will meet with much success if they choose the legislative route" (Arieff 1978, p. 1979).

Such optimism was undoubtedly bolstered by the fact that the opposition in Congress was positioned at key points in the decision-making process. In the Senate, Commerce Committee chairman Howard W. Cannon, a Nevada Democrat, was one of the strongest proponents of the regulatory system. House Public Works and Transportation Committee chairman Harold T. Johnson and Subcommittee on Surface Transportation chairman James J. Howard also opposed trucking reform.

The limited support for deregulation was largely among representatives who were not members of the relevant committees, i.e., the Senate Commerce and House Public Works and Transportation committees (R.E. Cohen 1977). The lack of proreform enthusiasm among members of these committees is illustrated by the fact that neither entity bothered to hold hearings on trucking deregulation before a bill was introduced in June 1979.

The only congressional investigation originated from an unlikely source: the Senate Judiciary Committee's Antitrust and Monopoly Subcommittee (1980). These hearings, conducted in October 1977—much to the chagrin of Senate Commerce chairman Cannon and the Teamsters and the ATA—primarily reflected the efforts of subcommittee chairman Ted Kennedy. His principal interest appeared to be in utilizing the issue to further his presidential aspirations. After leading the legislative fight for airline deregulation by holding a series of widely publicized hearings on air transport (U.S. Senate, Committee on the Judiciary, Subcommittee on Administrative Practice and Procedure 1975), his attention turned toward the trucking industry.

It must be emphasized that Kennedy's spearheading efforts to bring about deregulation were unique among senators. It was simply one way for an aspiring presidential candidate to earn his consumerist stripes. He did not reflect the majority view in the legislature. As late as May 1979, Lawrence Mosher of the *National Journal* wryly suggested that trucking deregulation was "an idea whose time has almost gone" because of congressional opposition. He concluded that "the reality is that few politicians on Capitol Hill are clamoring to deregulate the trucking industry right now. The

notable exception is Kennedy" (1979, pp. 817-818). Through the first half of 1980, many analysts were certain that congresspersons' electoral aspirations would sideline efforts to free the motor carrier industry from governmental controls.

Those holding this viewpoint ignored what was unfolding at the ICC. Maneuvering at the commission had qualitatively changed the context in which regulatory reform was being considered from that existing just a few years earlier. Representatives might not be clamoring for reform, but if they wished to preserve regulation, they had to act. Specifically, they needed to block deregulation by informally persuading the commission to abandon reform or by passing legislation. Congresspersons' ability to implement either of these strategies was quite limited.

On the one hand, convincing the ICC to drop its reform efforts required controlling either an effective punishment or an enticing reward for recalcitrant regulators: In this instance, Congress had neither. On the other hand, considering legislation to restrict the commission's discretion—the favored solution of both organized labor and the trucking industry—was likely to elicit presidential threats of a veto and exact considerable political costs for the legislators just as the general election approached. To many analysts' continuing surprise, the Carter administration did not waver in its support for deregulation. Even after the Teamsters accepted a wage package that fell within the administration's inflation guidelines,<sup>28</sup> Carter stood firm.

At first, congresspersons tried to persuade the ICC commissioners to abandon reform. For example, in a meeting with O'Neal in December 1978, representatives Johnson and Howard (two of the House leaders who allegedly had no taste for confrontation) asked the ICC chairman to end the commission's reformist edicts. The two leaders of the Public Works and Transportation Committee argued that O'Neal's commission had usurped congressional authority. Predictably, O'Neal declined their request. Other efforts were not so subtle. In a speech in October 1979 in Reston, Virginia, Senator Cannon (presumably at the behest of the Teamsters) publicly pronounced: "We are mad as hell, and we're not going to take it anymore. The Congress does not expect any independent agencies to act in 'novel' ways to achieve their own special goals" (Holsendolph 1979, p. 12). The ICC did not budge in the wake of Cannon's strong words.

Congress was now on the defensive. The ICC had so transformed the regulatory environment that proponents of deregulation held the upper hand. In June 1979 forces within the Carter administration finally agreed that the time was ripe for reform legislation. President Carter and Senator Kennedy, along with Senators Ribicoff, Metzenbaum, Riegle, Tsongas, and Hayakawa, introduced the Trucking Competition and Safety Act, which their staffs had drafted jointly. The administration also nominated four new ICC commissioners, including Darius Gaskins, who would assume the chairmanship when Daniel O'Neal decided to leave the commission at the end of the year.<sup>29</sup> Gaskins, chief economist at the Civil Aeronautics Board under Alfred Kahn, was an avid deregulator. Increasingly, congresspersons acknowledged the need to pass some legislation to placate the administration and the ICC while attempting to limit the extent of reform. In the terminology used to describe structure-induced equilibria (e.g., Shepsle 1979, Denzau & MacKay 1983, Weingast & Moran 1983), the constraint set (as partly defined by the status quo) had changed; and with it so too had the best feasible alternative for the proregulation legislative forces.

The shift in Congress's mood is illustrated well by Commerce chairman Cannon's metamorphosis. Trucking interests were extremely encouraged when the Commerce Committee wrested jurisdiction over trucking legislation from Edward Kennedy and the Senate Judiciary Committee. But while Cannon's initial reaction to the Carter/Kennedy proposal was unenthusiastic—he expressed doubts that the bill could be passed within the following two years and labeled support of trucking deregulation premature—his opposition soon softened. Since persuasion had failed, the only alternative left for proponents of regulation such as Cannon was to agree to legislation and try to get the best deal possible given their now disadvantageous bargaining position.

In a meeting with the ICC commissioners, Cannon reversed his position. The senator requested a moratorium on further deregulation by the commission in exchange for his personal pledge that legislation would be passed by June 1, 1980. Given this guarantee, the commissioners consented, but they stressed that they would revive their reform efforts if no legislation were forthcoming by that date. From the fall of 1979 to June 1980, the truce between Congress and the ICC held.<sup>30</sup>

Meanwhile, the ATA and the Teamsters were gearing up for a fight. In response to the announcement of the Carter/Kennedy legislative proposal, ATA President Bennett C. Whitlock accused the president of succumbing "to political pressure from Sen. Kennedy [Carter's competitor for the presidential nomination] by accepting his radical approach to trucking deregulation" (Sarasohn 1979, p. 1278). By the fall of 1979, the ATA alone had raised two million dollars to fight deregulation; it hired a public relations firm, and group representatives began contacting legislators personally. In addition, an extensive grass-roots campaign was launched—every congressperson was assured of being contacted by at least one district trucking concern (Alexis 1983). The Teamsters, aware that large number of union jobs were at stake, also mobilized strongly and were involved on a daily basis in the fight to preserve regulation.

It became abundantly clear to these groups as well as legislators that blocking legislation was not enough; it would only leave them to cope with an increasingly market-oriented ICC. Therefore, they prepared their own legislation, which was introduced in the House by Public Works chairman Johnson and in the Senate by Commerce Committee member Daniel Inouye. While it provided for some liberalization, it also explicitly prohibited the ICC from going further in opening up entry or removing route restrictions. But the ATA's and the Teamster's hopes—briefly bolstered by the ICC's moratorium on reform—were quickly dashed. Their bargaining position was simply too weak. Things had gone too far for such a moderate alternative to be acceptable to either the administration or the commission; and two-thirds of House and Senate members were not going to support a bill that would be denounced as endorsing regulation, big business, and the Teamsters.

As the June 1980 deadline and the prospect of renewed ICC administrative rulings approached, the legislative bottleneck began to break up. It became more and more evident that despite interest group efforts, the legislation would have to embody the great majority of the ICC's administrative changes. President Carter made it very clear that he would employ his veto powers if the bill were not acceptable, which would leave the way open for the resumption of ICC administrative deregulation. Opponents had little choice. Cannon and ranking Republican Robert Packwood agreed on legislation, called the Motor Carrier Reform Act of 1980, that was acceptable to the proderegulation forces. Packwood mobilized sufficient Republican support for crucial

sections of the bill to squeeze it out of committee and onto the Senate floor, where it was approved 70 to 20.

Predictably, the House of Representatives was more recalcitrant than the Senate. Here the ATA and the Teamsters tried once again to back legislation that was more favorable to their interests. But the White House countered that their bill was unacceptable and repeated its veto pledge. This legislation was withdrawn, and the Cannon/Packwood proposal was substituted.<sup>31</sup> The proregulation forces made one final try, attempting to weaken the legislation substantially by specifying that either the House or the Senate could veto any ICC regulation as long as the resolution was not defeated in the other chamber. After renewed veto threats, this effort failed by just 3 votes (189-192). Finally, the House passed the Senate bill on June 20th, 367-13.

President Carter hailed the legislation's passage and announced that it "would save shippers and consumers billions of dollars each year and conserve hundreds of millions of gallons of fuel" (*Public Papers of the Presidents* 1982, p. 1147). Eleven days later, he signed the Motor Carrier Act into law, confidently declaring that "I know I can count on the Commission to take prompt and effective action to bring to the public the benefits of greater competition, greater productivity, and lower prices that this law will provide" (*Public Papers of the Presidents* 1982, p. 1267).

Naturally, all of the parties involved attempted to claim credit—including reluctant congresspersons, the ATA, and the Teamsters. Perhaps the most ironic case was Howard Cannon's efforts to portray himself as a deregulator. The Nevada senator's ties to the Teamsters were so close that in February 1980 it was disclosed that their dealings were the subject of a legal investigation.<sup>32</sup> While he ultimately sponsored the Motor Carrier Act, his support was reactive, always lagging a step behind what was happening in the executive branch and at the ICC.

The legislation that was finally passed largely codified prior ICC actions. Its specific provisions need not be reviewed here (for a detailed analysis, see Harper 1980). The statute basically preserved the new status quo, with a few concessions to placate group and congressional interests.

Putting reforms into statutory language assured the proponents of deregulation that their hard won changes would not be overruled by future commissions. The passage of the Motor Carrier Act also prevented court battles over whether administrative reforms fell within the limits of ICC discretion. These amendments to the Interstate Commerce Act insulated "recent administrative changes from court reversal or an agency retreat in the wake of new appointments" (Hayden 1980, p. 147). It is quite possible that the courts would have ruled that some of the commission's rulings of the late 1970s went beyond the ICC's legislative mandate (for a general discussion of judicial attitudes toward deregulation, see Merrick 1985);<sup>33</sup> with the new legislation, such questions were moot.

Although proponents of regulation had to swallow the bulk of previous reforms, they did win a few concessions. First, master certificates were explicitly prohibited. Such certificates were particularly distasteful to the ATA, which hoped that ruling them out would ensure at least a modicum of control on entry (Harper 1980, Guandolo 1981). Second, the rate bureaus remained immune from antitrust proceedings, although how effective they could be in a competitive market was certainly debatable. Third, in a move directed toward the Teamsters, the House committee inserted a provision directing the Secretary of Labor to compile a list of jobs available throughout



the motor freight industry to assist displaced employees. Fourth, the act required the ICC to conduct a study of motor trucking services to small communities and report back by January 1, 1983. (In reality, it would take until June.) For rather obvious political reasons, maintenance of trucking service to small communities was of particular concern to congresspersons. A major contention of the opponents of reform (e.g., Dempsey 1980) had been that deregulation would cut off some communities from trucking service and that legislators would be blamed. Despite many noted economists' arguments that there was no basis for this "folklore" (A. Kahn 1982, p. 262), congresspersons took the cautious route so that they could reassure their constituents that service to their communities would be safeguarded.

The Motor Carrier Act provided one final consolation for supporters of trucking regulation. Advocates of motor carrier regulation were unable to get language prohibiting future reforms put into the law, but they obviously hoped that the Motor Carrier Act would satisfy the president and the commission while preventing further damage.

### **Conclusions: Presidential Control of Regulation**

Motor carrier deregulation was driven by the chief executive's management of the political process. The regulatory alliance among bureaucrats, legislators, and interest groups broke down because Presidents Ford and Carter assigned a high priority to reducing economic regulation. Electorally, this was probably a strategic mistake, particularly on Carter's part. The Teamsters and the truckers might have provided more direct help in the 1980 election than the electoral benefits derived from trucking deregulation.<sup>34</sup> Although by the late 1970s, group leaders were not prepared to endorse Carter, they were willing to consider abstention if he took some steps to assuage them—but the president refused to compromise. This simply illustrates that chief executives are interested in governing as well as in winning elections: Motor freight reform was deemed a sufficiently important instrument for microeconomic management that the administration was willing, if necessary, to swallow the electoral retribution.

The heightened salience that presidents attached to deregulation of the trucking industry transformed the ICC's balancing of legislative and executive interests because Ford and Carter were in a position to institute such a change and deemed it worth the cost. The Carter administration ultimately succeeded by adopting a strategy of altering the status quo through administrative measures and then forcing legislators to endorse the new state of affairs. Representatives, unable to persuade the ICC to stop its reform measures and unwilling to overrule the commission publicly via legislation, gave the chief executive most of the changes he wanted. By and large, their votes for the Motor Carrier Act of 1980 did not reflect either an ideological commitment to free markets or an effort to protect constituent interests. The president and the ICC had successfully maneuvered Congress into a disadvantageous position, which gave representatives little choice but to follow the executive's lead. Similarly, industry groups and organized labor could only go along or find themselves excluded entirely from the decision-making process. Both representatives and interest group leaders had to choose between legislation and the possibility of even more extensive administratively centered reform. The commission's interest in creating master certificates and reviewing the rate bureaus' performance foreshadowed what might happen if the ICC were left to its

own devices. Congress and group leaders decided on the legislative alternative, which allowed them to claim credit and to receive a few small concessions.

Deregulation demonstrates the limits of interest group influence and the economic theory of politics. Legislators and interest groups had few, if any, institutional incentives to support such a policy. Reform was implemented against the will of Congress, the truckers, and the Teamsters. All tried to block the progress of deregulation and in the end failed miserably.

This analysis of the reform process has much broader implications: Theories of group dominance and other similarly narrow theories of bureaucracy ignore the conditional nature of political influence. It is imperative to focus on the process through which influence is exercised and the context in which it operates. The American political system is characterized by the separation of powers among actors with contrasting institutional incentives. These actors adopt strategies that reflect the political context, and they manipulate the political process to realize their goals.

Advocates of interest group theory, who presume that groups dictate bureaucratic policies regardless of context, cannot explain adequately either bureaucratic politics generally or the deregulation process specifically. In reaction to the enormous threat of reform, the relevant groups amassed immense resources and mobilized the huge organizations at their disposal. Yet in the end, the returns they actually received hardly seem worth the investment.

Direct group influence—to whatever degree it existed previously—largely broke down when the chief executive moved the ICC toward a more pro-market stance by appointing a chairman committed to reform and not replacing hostile commissioners. Because the remaining members were principally concerned with the pursuit of programmatic goals, the ATA and the Teamsters had few direct sanctions they could use to threaten and punish uncooperative agency decision-makers. When they spurred congresspersons to intervene, the legislators' admonitions were largely ignored as well. Although the president could almost certainly have put a stop to motor carrier reform, the ATA's and the Teamsters' ability to influence an administration beleaguered by negative evaluations of the economy's performance proved to be quite negligible. While organized groups certainly slowed the reform process, dictated the method of implementation, and rendered the ultimate result somewhat less comprehensive than it would have been otherwise, they could not prevent it.

Consequently, deregulation of the trucking industry, like regulation itself, provides further evidence of the need for a balanced view of organizational influence. On the one hand, interest groups are likely to be relatively successful in situations that are not highly salient for either the average citizen or other institutional actors (especially the judiciary and the chief executive). On the other hand, when the president or the judiciary is able and willing to take the initiative, groups will be less effective because bureaucrats' incentives to be responsive to these organizations' needs can be diminished by the alternative institutional efforts. It is not surprising that interest groups could not prevent motor carrier reform, a policy in which the chief executive was extremely interested and where he had clearly gained the upper hand. While organizations must not be ignored, they should not be viewed in isolation either.

Furthermore, there is little evidence that group influence was mediated by the congressional process. The belief that policy changes arise from, and that group influence is mediated by, alterations in committee representation simply was not borne out in this case. The vast majority of legislators, particularly the members of the committees with jurisdiction over motor freight deregulation, continued to favor the preservation of trucking regulation as it had operated during the previous four decades. While administrative deregulation at the ICC and the passage of the Motor Carrier Reform Act of 1980 represent dramatic policy shifts, there were no corresponding changes on the relevant congressional committees. Motor freight deregulation could not have been predicted a priori based on the tenets of congressional theories of bureaucratic politics. Rather than exercising a dominant role in the political process, legislators were basically unwilling partners who tried to obstruct reform while maintaining a proconsumer image. Congressional influence is also conditioned by a variety of factors such as policy salience, the ability to prevent reconsideration of an issue, and the possession of sanctions that can be used against bureaucrats who shirk legislative directives. The confident belief that an explanation of deregulation must fundamentally revolve around a study of Congress and its committees (Shepsle 1985) is incorrect.

Two unstated, but crucial, assumptions of those believing in "iron triangles" and congressional dominance are that the status quo is desirable to groups and representatives and that the relevant committee can veto any changes. Committee members define a structure-induced equilibrium, initially choosing an alternative within a feasible set (i.e., those options supported by a majority of legislators); they do nothing subsequently unless a new policy becomes more attractive. But the status quo is endogenous to others besides congressional committees: Representatives' delegation of implementation to the executive in a world of imperfect information gives him opportunities for moving policy to a point that is less desirable to committee members. The analysis of motor carrier reform illustrates just such a process in action. The challenge for representatives then becomes to shift the status quo back.

Congressional control in this transformed setting is a difficult task, particularly if more subtle legislative sanctions are inapplicable and a statutory solution is required. Representatives must now jump through an enormous number of hoops to exercise their erstwhile dominance. Strategically minded committee members must come up with the best alternative that will either receive executive approval or will be supported by two-thirds of all legislators even if the president opposes it. With no presidential interference, committees would choose from a feasible set consisting of all alternatives to the status quo that a legislative majority would support. When the chief executive is integrated into this process, the feasible set is whittled down to those alternatives that either a majority *and* the president can support or two-thirds will endorse despite the pressures of an executive veto threat.

Finally, the analysis of deregulation manifests that the importance of the chief executive should not be overlooked: Bureaucratic politics are more than a reflection of direct group influence or its institutional mediation by Congress. Given the right conditions and sufficient incentives, Presidents Ford and Carter were able to achieve sweeping reforms that clashed with congressional and group concerns.

Executive efforts to guide the status quo when congressional and presidential preferences are incompatible are common. Motor freight reform is not merely one of a few instances of deregulation; it is part of a larger universe of events where Congress and the executive are working at crosspurposes. There is reason to believe that members of the institutional presidency (Moe 1985b) have become increasingly preoccupied with employing rules to shift the status quo—whether it be Nixon’s attempts to mold the bureaucracy by penalizing recalcitrant civil servants (Nathan 1983) or Reagan’s attack on the EPA through appointments of individuals willing to relax environmental standards (Foreman 1984). The belief that Congress can comfortably create a status quo to its liking and then maintain it with marginal alterations as congressional preferences change is untenable as a general principle.

The Motor Carrier Act of 1980 illustrates clearly that not only can chief executives achieve substantial incremental changes in bureaucratic performance—as has been shown elsewhere (Beck 1982, 1984; Moe 1982, 1985a; Rothenberg 1985, 1987)—but they can sometimes effect dramatic policy shifts as well. Such situations will develop around issues that presidents value highly and where their administrative authority is least vulnerable to circumvention by other institutional actors, notably Congress. While powerful groups may sometimes offer chief executives sufficient inducements to abandon their programmatic goals in favor of narrower electoral ones, presidents’ institutional position will frequently put them at odds with prominent associations. The increasing institutionalization of the presidency partially reflects executives’ desire to develop organizational means of bringing about change, particularly through administrative maneuvers that allow them to sidestep the obstacles posed by Congress and important interest groups.

In summary, the deregulation of the motor carrier industry demonstrates the limits of group influence. Its analysis again underscores that theories that depict concentrated groups as the driving force behind the political system—whether their effects are direct or mediated via the legislative process—need to be rethought. Group influence is not nearly so straightforward; even the most strongly captured regulatory process is vulnerable to radical change, given the right set of conditions.<sup>35</sup>

## APPENDIX A-1: DID CONGRESSIONAL COMMITTEES CAUSE DEREGULATION?

The qualitative analysis presented throughout this research supports the assertion that congressional committees were not the catalyst behind deregulation. It is difficult to test this assertion more systematically, since measuring preferences exogenous to the dependent variable is a formidable task. Nevertheless, measures are available that provide a suggestive test of the theory.

Two available indicators are surrogates for legislative preferences: liberalism and small community representation. Liberalism—gauged using Americans for Democratic Action (ADA) ratings (adjusted for abstentions)—has been employed in virtually all studies testing congressional control of bureaucratic policy (e.g., Weingast & Moran 1983, Moe 1985a). Small community representation—measured as the percentage of a legislator’s constituents residing in rural areas—is of special importance for motor freight deregulation.

Use of liberalism as a generic measure to gauge legislative influence is admittedly problematic. Unless we are to believe some of the recent work by Poole and Rosenthal (1985; for a rebuttal, see Koford 1986), it is inappropriate to assume that all policies are part of a liberal/conservative dimension. ICC regulation of trucking is certainly a prime candidate for contradicting the belief in a uni-dimensional policy world. Never characterized by a consistent ideological slant, it was supported by business and labor alike. The geographical dispersion of proponents gave all legislators an incentive to endorse the regulatory status quo, whatever their ideological predispositions. On a more rhetorical level, both liberals and conservatives found certain aspects of trucking regulation appealing. For liberals, regulations harnessed business and protected consumers; for conservatives, it ensured an effective transportation system that served business needs. It is not surprising that econometric analyses of ICC regulation of entry and unifications provide no support for the hypothesis that ideology was relevant for commission decision-making (Rothenberg 1985, 1987). The association between ideology and deregulation is also unclear. Reform of economic regulation has been a battle cry of both the left and the right.

Still, it might be hypothesized that motor freight reform was different from either trucking regulation or economic deregulation generally. It can be argued that relaxation of regulatory controls over motor freight carriers became a liberal issue. The reform effort was championed by a Democratic president, Jimmy Carter, to whom liberals ought to have been more responsive than conservatives. The foremost legislative advocate of reform was the ultimate liberal, Ted Kennedy. And the labor group that was injured, the IBT, was not an ally of liberal causes—deregulation did not put liberals at loggerheads with traditional union friends such as the AFL-CIO.

Was motor freight regulation associated with an ascendance of liberals on the key committees? Examination of the data (Table A-1) reveals that it was not. The mean liberalism scores of the Senate Commerce and House Commerce/Public Works and Transportation committees did not change dramatically—the maximum variation was only 6 percent (comparing the means from 1970-1975 and 1976-1980). Furthermore, all of the relevant committees and subcommittees actually became slightly *less* liberal. The chairs of both committees also became more conservative, as did the subcommittee chair in the Senate. Only the House subcommittee chairman stands out as an exception, and by all accounts Harold T. Johnson was neither an advocate of reform nor a major

player in the legislative game. It is hard to argue that these data demonstrate congressional control.

Changes in legislative ideology at key places in the political process do not seem to explain deregulation. But liberalism was employed with a significant amount of trepidation. The dearth of positive evidence of legislative supremacy may reflect measurement error. What is needed is a confirmatory test based on a factor that all can agree should be an important determinant of how legislators felt about reform.

Particularly for deregulation, small community representation is just such an unassailable feature. As has been discussed, the biggest concern voiced by legislators regarding deregulation was the possible elimination of service to small communities. Those with many small communities in their districts were more likely to vote against both the original legislation and proreform amendments.

The hypothesis then is clear: A dramatic decline in small community representation on the relevant committees would demonstrate that congressional structure and preferences were at the heart of the deregulation process. Reform occurred because committee members had less reason to be antagonistic toward it. Evidence to the contrary would suggest that the answer lies elsewhere.

A comparison of subcommittee and committee means yields quite unspectacular results (Table A-2). Small community representation in the constituencies of the average committee members actually rose, albeit by rather small amounts. So if anything, there is even more reason to expect that representatives would have put a stop to reform if they could have. Although small community representation among committee chairpersons declined in all but one case (Senate Commerce chairperson Cannon, about whom enough has already been said), the rural proportion of their constituencies exceeded the national average of 26 percent. There was not even a significant drop in small community representation from 1970-1971 to 1972, despite the effects of the court-ordered redistricting stemming from *Baker v. Carr* (396 U.S. 186 [1962]; see also *Wesberry v. Sanders* 376 U.S. 1 [1964]) were felt in the 93rd Congress. Contrary to the assertions of McCubbins and Schwartz (1986), a decline in rural representation did not lead to transportation reform. Clearly, these results contradict the belief in congressional dominance.

The key point is that there is no evidence of dramatic changes in legislative preferences that might have instigated a major move from a regulatory to a market regime. Combined with the more qualitative results presented in the main text of this analysis, it is hard to argue that the quiet confidence of those assuming that Congress drove the reform process is justified.

**Table A-1: Liberalism, 1970-1980<sup>a</sup>**  
(ADA Scores)

<i>MEASURE</i> <i>YEAR</i>	SENATE COMMERCE COMMITTEE	HOUSE COMMERCE/PUBLIC WORKS COMMITTEES
<i>Committee Mean</i>		
1970	49	39
1971	49	42
1972	43	38
1973	53	42
1974	56	39
1975	55	45
1976	54	38
1977	44	33
1978	40	30
1979	35	37
1980	50	37
<i>Committee Chairmen</i>		
1970	75	53
1971	78	40
1972	65	33
1973	80	64
1974	81	45
1975	67	44
1976	75	27
1977	75	40
1978	55	45
1979	22	68
1980	44	71
<i>Subcommittee Mean</i>		
1970	41	38
1971	44	47
1972	40	45
1973	48	48
1974	48	46
1975	51	55
1976	46	47
1977	43	39
1978	42	32
1979	36	42
1980	50	40
<i>Subcommittee Chairmen</i>		
1970	86	89
1971	96	10
1972	94	7
1973	76	4
1974	80	0
1975	93	95
1976	73	90
1977	18	78
1978	25	63
1979	20	84
1980	46	88

<sup>a</sup> Source: *ADA World*

**Table A-2: Small Community Representation, 1970-1980<sup>b</sup>**  
*(Percentage Rural)*

<i>MEASURE YEAR</i>	<i>SENATE COMMERCE COMMITTEE</i>	<i>HOUSE COMMERCE/PUBLIC WORKS COMMITTEES</i>
<i>Committee Mean</i>		
1970	31.6	30.8
1971	31.6	28.2
1972	31.4	28.2
1973	29.3	21.9
1974	29.0	21.9
1975	26.3	29.9
1976	26.0	29.8
1977	32.4	32.2
1978	31.4	32.6
1979	31.5	30.4
1980	31.4	29.7
<i>Committee Chairmen</i>		
1970	27.4	77.3
1971	27.3	77.6
1972	27.2	78.0
1973	27.1	76.9
1974	27.0	77.2
1975	27.0	41.7
1976	26.9	41.5
1977	26.8	47.0
1978	15.6	46.8
1979	15.1	46.6
1980	14.7	46.4
<i>Subcommittee Mean</i>		
1970	35.4	21.1
1971	31.1	11.7
1972	30.8	11.7
1973	31.4	17.0
1974	31.1	17.0
1975	28.7	25.9
1976	28.5	25.9
1977	31.2	31.2
1978	29.3	31.2
1979	33.0	27.6
1980	32.9	27.7
<i>Subcommittee Chairmen</i>		
1970	36.2	00.0
1971	36.2	91.0
1972	36.1	12.0
1973	36.1	12.0
1974	36.0	17.9
1975	36.0	17.9
1976	36.0	17.9
1977	32.2	17.9
1978	31.9	17.9
1979	31.7	17.9
1980	31.4	17.8

<sup>b</sup> Source: *Congressional District Data Books*



## NOTES

- \* A large number of people have made helpful suggestions and raised challenging questions: Jonathon Bendor, Bruce Cain, Thomas Gilligan, Thomas Hammond, Mark Hanson, Rod Kiewiet, Terry Moe, and Barbara Rothenberg.

This research is part of a larger effort (Rothenberg 1987). The evidence and conclusions are based not only on the publications cited, but also on anonymous interviews conducted between 1984 and 1986 while the author was at the Brookings Institution.

1. The fact that the ICC regulated both the motor carriers and the railroads did pose a problem. However, for the most part this was simply ignored—the emphasis was on those areas of regulation where the motor carriers and the railroads had a common interest—or it was argued that truckers had now captured the ICC.
2. Despite their vested interest in trucking regulation, the railroads' situation had reached such a precarious point by the 1970s that they were not involved in the process of motor carrier reform. They were too busy seeking more direct governmental assistance to alleviate their plight and were unwilling to risk approval of their own deregulation by opposing trucking reform.
3. In a brief discussion, Moore (1982) suggests that the combination of high inflation rates and regulatory lag hurt the trucking industry and consequently reduced group opposition to deregulation. He argues that costs increased much faster than government officials permitted rates to rise, which effectively reduced carriers' real income. However, Moore's assertions are incongruent with reality (and even with what he has written elsewhere): Carriers were quite successful in getting approval for inflation-induced rate increases, and the ATA and the Teamsters fought deregulation quite strenuously (Keeler 1984).
4. Truckers did compete over service, especially with respect to frequency of scheduling. However, competition was much less intense than among the airlines. Therefore, it did not consume a large share of motor carrier profits.
5. The relative growth of unregulated truckers might have created analogous tensions. These carriers generally viewed deregulation favorably and accounted for 60 percent of motor freight ton-miles (see U.S. Senate, Committee on Government Operations 1977). But they were a weak political force: They were poorly organized, and regulatory reform did not have the same salience for them as for the regulated truckers. In addition, unregulated carriers had grown primarily at the expense of the railroads, not the regulated truckers. Since unregulated carriers utilized the same technology as regulated truckers, their growth did not increase the efficiency costs of regulation either. In sum, unregulated truckers were not a major force behind motor freight reform.
6. The fears of the unionized truck drivers were well founded (Lieb 1984, Perry et al. 1986). Beginning in 1979—with administrative reform well under way—the wages of Teamster drivers began to decline precipitously. By 1984 their earnings in real dollars had dropped 15 percent (Rose 1985a,b,c; 1986) but see U.S. General Accounting Office 1982).

7. Curiously, Kingdon introduces the case of transportation deregulation early in his study (pp. 9-13) but, after developing his theoretical framework, discusses it only in passing. The garbage can explanation of motor freight deregulation in the present analysis involves some extrapolation from Kingdon's fragmentary discussion.
8. The theory of second-best pricing, also known as Ramsey pricing, is an attempt to deal with situations where marginal cost pricing leads to negative profits. It has often been employed to refute the desirability of having regulators set rates (for a brief, nontechnical discussion, see Breyer 1982).
9. The final piece of legislation deregulating the railroads, the Staggers Rail Act, was not enacted until October 1980, several months after the passage of the Motor Carrier Act of 1980. However, given the enactment of the Railroad Revitalization and Reform Act in 1976 and subsequent administrative moves designed to further the process, it can be said that motor freight reform largely followed railroad deregulation.
10. While in the conclusions quoted earlier Derthick and Quirk stress "the presence of leadership roles and institutions, especially the commissions and courts," in the body of their analysis they place considerable emphasis on congressional leadership. Parenthetically, the courts' role in promoting motor carrier reform was weak at best.
11. Robyn also tends to ignore the substantial changes that occurred before 1979 (to be discussed), perhaps because she only became an observer of the reform process in December of that year.
12. The argument advanced here is somewhat similar to the one Kiewiet and McCubbins (1984, 1986) use to explain the interrelationship between Congress and the president in the budgetary process. It also bears some resemblance to Barry Weingast's (1981) verbal explanation of airline deregulation but not to his formalization, which heavily emphasizes the role of the median voter in congressional committees.
13. Joseph Eastman was elected to a three-year term by his fellow commissioners in 1939. However, such a procedure was never institutionalized and would not have aided the president in his efforts to make the commission more responsive to his wishes either.
14. Why Congress gave Nixon what his predecessors had failed to obtain was a function of a number of factors. First, the stance of the railroads, the truckers, and the ICC had changed. In a reversal of their historic position, the railroads came out in favor of a permanent chair in hopes that it might foster commission leadership for resolving the railroads' financial dilemma, which had reached crisis proportions. The ATA remained neutral on this matter, apparently feeling that as long as the chairman's authority was properly circumscribed, presidential appointment would not pose a threat. At the same time, however, it opposed the more far-reaching reforms being advanced by the Ash Council (President's Advisory Council on Executive Reorganization 1971). The ICC also endorsed the idea of a permanent chair. Second, legislators were unhappy with the ICC's responsiveness in the wake of the railroad crisis, and they were particularly dissatisfied with Virginia Mae Brown, the current head of the commission. Finally, the simple fact that for years the commission had been the only agency without a permanent chair made rejection politically embarrassing. (Congress had to reject the reorganization plan within sixty days, or it automatically took effect.)

In its immediate use of the power to appoint the chairman, the Nixon White House allayed any fears that the truckers might have had. It originally offered the position to William K. Smith, a General Mills vice-president, to assuage the shippers since they had opposed the permanent chair. Smith declined, however, when the White House made it clear that his acceptance came with the precondition that the changes he could effectuate would be limited. The administration then turned to the ICC, where the pickings among Republican commissioners were quite meager. The obvious choices were Dale Hardin and George Stafford, neither of whom was particularly likely to upset the status quo. Nixon chose the latter, who proved to be a weak chairman.

15. This task force report, entitled National Transportation Policy and also known as the Hilton Report, is unpublished.
16. Losing ICC control over safety regulation was not much of a blow to the truckers. DOT could implement these rules effectively only if the commission cooperated by withdrawing operating authorities when they were violated—something the ICC was loath to do.
17. These hearings were not concerned primarily with the costs of trucking regulation. Rather, they focused on the ailing financial condition of the northeastern railroads in light of Penn Central's bankruptcy in 1972.
18. In the *Pan American [I M.C.C. 190, 203 (1936)]* case, the commission outlined three criteria for assessing applications for operative certificates. They were (1) whether the new operation or services served a useful public purpose; (2) whether this purpose can and will be served as well by existing carriers; and (3) whether this purpose can be served by the applicant without endangering or impairing the operations of existing carriers contrary to the public interest. The commission generally focused solely on the adequacy of existing service.
19. O'Neal is an especially interesting case. When he came to the ICC from the Senate Commerce Committee, it was believed that he wanted to shake things up at the agency, possibly motivated by a desire to pursue a political career in Washington state. However, it is unclear whether he was truly committed to reform or was just a maverick.
20. Corber resigned near the end of the Ford administration because he believed that he would not be reappointed by Carter, who would want a more fervent deregulator. He had been appointed to fill the remainder of the retiring Donald Brewer's term and consequently did not have a full seven years.
21. Most notably, Ford nominated Barbara A. Simpson of North Carolina to the Federal Power Commission just before that state's presidential primary.
22. In late 1976 Ford also nominated Richard E. Quick as an ICC commissioner. Predictably, the Senate simply ignored this appointment.
23. The method of implementing airline deregulation was quite similar to the trucking case. Alfred Kahn, chairman of both the Civil Aeronautics Board and the Council of Economic Advisors during the Carter administration, notes these similarities when he states that

we had the unwavering commitment of the president, who appointed enthusiastic deregulators to the ICC and then assured Congress that he would veto any unacceptable bill it might be tempted to produce, leaving the industry to the tender mercies of his

appointees—the same kind of one-two punch as deregulated the airlines. (1982, p. 263; see also Weingast 1981)

Unfortunately, comparing and contrasting the two cases in detail is beyond the scope of the present research.

24. This measure also reflected the administration's pragmatic recognition that it would be difficult, if not impossible, to obtain Senate approval to appoint a new commissioner chairman. Senators and the trucking industry had made it abundantly clear that Carter's first choice for the chairmanship, Sam Hall Flint, a vice-president of the Quaker Oats Co. and an outspoken critic of ICC regulation, was unacceptable. Instead, the Carter administration settled on O'Neal, who recognized that he was obligated to advance White House policy on motor carrier regulation to keep his chairmanship.
25. By this time O'Neal had produced yet another staff paper in which he proposed even more far-reaching reforms (for a summary, see American Enterprise Institute 1979).
26. At the time O'Neal believed that reducing the number of commissioners was the one proposal that required legislation, since according to the Interstate Commerce Act, commissioners could serve until their successors were chosen and approved. This may explain why this move was couched in efficiency terms. As Seidman notes (1980), to diminish opposition structural changes are often presented as efficiency moves, even when the primary motivation is political.

The number of commissioners was actually reduced without congressional action—the president simply refused to name new commissioners when slots on the ICC became vacant. Since proregulatory commissioners knew that they would not be reappointed, when they received good job offers they left rather than waiting to be thrown out of the agency at a potentially inopportune time. (Commissioner Stafford, who was moving toward semiretirement, left at the specific time that he did because changes in the pension rules would have reduced his benefits had he remained.) Commissioner Brown, in contrast, was permitted to continue serving for almost two years after her term expired; she allegedly had an understanding with the Carter White House that her continued tenure at the ICC was contingent upon her voting with the reformers. Despite doing so, her hopes of eventually being renominated were never realized.

The strategy of leaving positions vacant is not an uncommon White House practice. It is a perfect way of holding firm while avoiding a direct confrontation with the legislature (Davidson 1984).

27. On announcing that he intended to introduce deregulation legislation on January 22, 1979, Senator Kennedy presented a coalition of 13 groups willing to support such a bill (Arieff 1979). They included the National Association of Manufacturers, the Independent Truckers Association, the American Conservative Union, the Minority Trucking and Transportation Development Corporation, and the American Trucking Associations' Contract Carrier Conference (whose members saw deregulation as a means for contract carriers to compete with common carriers). While an impressive roster, none of the major organizations willing to add their names to the reform cause judged trucking regulation to be sufficiently important to commit tangible resources to the cause (Derthick & Quirk 1985).

To the degree that observers believed that any group forces were important, they focused on large shippers like Sears. These entities pressured the principal shipper organization, the National Industrial Traffic League (NITL), to support reform. Small shippers were less favorably inclined toward deregulation. Nevertheless, it is quite apparent that it was not the efforts of these large shippers that turned legislators around: The truckers and the Teamsters were certainly more than the equals of these forces.

28. It was widely assumed at the time that the administration had struck a deal with the Teamsters: Postponement of legislation deregulating the industry in exchange for an acceptable settlement (see, for example, *Regulation* 1979, Samuelson 1979). While the IBT believed that such a deal had been struck and the union had lived up to its end of the bargain, members of the Carter administration refused to go along.
29. These appointments provide further evidence both that the reduction in the number of commissioners was political in nature and that reform proponents had gained a strategic advantage vis-a-vis Congress. (Not surprisingly, my interviewees cited both efficiency and political factors as the reasons behind the reduction in the number of commissioners.) The nomination of three new members—Thomas Trantum, Marcus Alexis, and Reginald Gilliam—in addition to Gaskins (who replaced Virginia Mae Brown) gave the ICC nine commissioners. The commitment to reduce the number of commissioners to seven was at least temporarily abandoned.

As the logic of the political-economic model highlights, congressional opposition to these appointments would have been fruitless. If the administration were indeed struggling to gain a sympathetic majority on the commission to implement reform, it would have been worth Congress's while to challenge the nominations. But the ICC already had a firm proderegulation majority, and reform was well under way. Opposing the nominations at this point would only generate negative publicity, and the costs would not outweigh the benefits. (This belief was confirmed in my interviews.) Alexis, Trantum, and Gaskins, known around the commission as the "3 Marketeers," as well as Gilliam, were allowed to join the ICC.

30. The truce was informally extended through the month of June as it became clear that legislation was imminent. The accord threatened to break down only once, with the commission's decision in *Arrow Transportation* (MC-2862 [Sub-No. 62], F. 133 M.C.C. 941 [1980]), in which the ICC ruled that carriers could no longer successfully protest applications for operating authority on the grounds that they would lose traffic. Congress and the relevant interest groups cried foul, apparently with some success. The ICC did not issue any more decisions of such magnitude before the legislation was passed.
31. The legislative maneuvering was actually more complicated. The bill in the House was amended to be roughly the same as the Cannon/Packwood legislation, although it remained somewhat weaker in certain minor respects. The House bill was then accepted by the Senate without going to a conference committee to prevent one final effort by advocates of regulation—particularly the Teamsters, who were less willing to accept the legislation than the ATA—to amend the bill. The main fear was that modifications would make the bill unacceptable to the president.

32. As was made clear in a number of my interviews, the negative publicity that Cannon received when news of the investigation leaked out provided additional incentive to support deregulation (see also Derthick & Quirk 1985). In the end, Cannon was not indicted, but his association with the Teamsters was blamed for his 1982 electoral defeat.
33. At the time the Motor Carrier Act of 1980 was passed, commission rulings that weakened the *Pan American* criteria [Ex Parte No. 121] and allowed intercorporate hauling were being contested in the courts. But the magnitude of the ATA's and the IBT's potential gains from court battles should not be overestimated. Even if some commission rulings had been thrown out, it is doubtful that it would have greatly affected the thrust of ICC policy. Moreover, while future commissioners could try to roll back ICC reforms, presidents were unlikely to nominate strong supporters of regulation. Even if they did, much of the "damage" would already have been done with the flood of new entrants into the motor transportation industry.
34. The threat Senator Kennedy posed to Carter within the Democratic party undoubtedly reinforced the president's commitment to reform. But Carter still could have struck a deal that would allow him to drop deregulation once he had his party's nomination firmly in his grasp.
35. Future research plans are to expand this analysis in a comparative direction by sampling from the universe of cases when the chief executive tries to move the status quo in a direction that is inconsistent with congressional preferences.

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